D.3.5. Policy recommendation report on implications of the changing relation between the ethical dilemmas of internal/external security

Ethical Security in Europe? Empirical Findings on Value Shifts and Dilemmas across European Internal-External Security Policies

POLICY RECOMMENDATION REPORT

INEX WORK PACKAGE 3

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Executive Summary

This Policy Recommendation report presents the empirical findings on case studies which were undertaken in the context of INEX Work Package 3 "Value-Dilemmas of Security Professionals".

The first leg of the research project looked at the ethical implications and value dilemmas faced in the design, programming and policy-making in the EU security sector reform policy at the level of the EU institutions in Brussels, with a particular focus on the working relationship and converging/conflicting political agendas and approaches. The research revealed that EU officials at the higher echelons seem to be able to interpret the code of conduct of their organisation (the Commission or the Council General Secretariat) in a more flexible manner than EU officials working in lower positions who have a limited opportunity to reflect on value premises, partly due to the workload and partly due to the specificity of their tasks. Moreover, while the discourse on EU security among EU officials recognises the existence of the blurring of internal and external security interests and concerns, EU Member State seconded diplomats are more open to using their personal moral code in differentiating between right or wrong during decision-making. In addition, higher echelons in the EC are willing to bend the rules (thus interpret the value of lawfulness with more flexibility) in order to accommodate the interests of their unit/organisationand be able to tackle complex obstacles (especially of an inter-institutional nature).

The second leg of the research concentrated on the ethical ramifications of the implementation of EU Rule of Law Reforms in Kosovo, which demonstrated that EU officials – and particularly EULEX personnel, since the deployed CSDP mission is the lead organisation in rule of law reforms in Kosovo – are faced with value dilemmas as a consequence of the complex political situation. The absence of a long-term strategy for Kosovo undermines the credibility of RoL efforts and creates confusion on the ground – including at the level of values – and constitutes an ethical paradox *per se*. It has led the EU to follow diverging approaches at Brussels level (following the '22+5' formula) and operational and tactical levels (with EULEX taking a more pragmatic approach to implement its mandate). This situation is further compounded by the fact that the EU does not have real leverage on Kosovo's political leaders. The feeling of uncertainty among EULEX personnel that emanates from the lack of a clear EU policy on Kosovo has negatively impacted on EULEX effectiveness, external accountability towards local stakeholders (issues of trust), efficiency and to a certain degree impartiality (it is difficult to remain impassive and dispassionate in such a charged conflict environmentThe analysis of ethical dilemmas in the implementation of the European Rule of Law reform efforts in Kosovo also found that the value of innovation is of primordial importance and put into good use. .

The third leg of the research focused on shifts in ethical values and ethical dilemmas in EU Member States new security practices. The research bifurcated into two case studies, namely the implementation of anti-terrorism/radicalisation measures in the Netherlands and the UK and the recent interception of migrants in the central Mediterranean Sea undertaken by the Italian authorities. According to our empirical findings, security professionals tend to rely on 'descriptive ethics', leaving apart codified sets of values and principles. This confirms the INEX Project's initial assumptions on the importance of non-normative ethics and corroborates the analogous results of our study on the EU SSR Policy and Value Dilemmas. Non-normative professional ethics is judged very useful in the work of security professionals. Their ethical self-reflection stands at the crossroads of two distinct levels, namely the internal and external dimensions of both officers (considered in either their personal or professional capacity) and organisations. The latter's activities have expanded both externally, i.e. in direction of other organisations and countries, and internally, i.e.

through reforms aimed at favouring a progressive centralisation of functions as well as an increase in the general organisational effectiveness.

This part of the study highlights an increasing shift in the ethical values of reference for security professionals. Principles such as integrity and honesty, accountability, transparency, expertise and reliability are held by security professionals among the most significant in their job. This value shift is mostly due to external reasons, i.e. the potential consequences that misconduct may have on the work of security officials, amplified in political and media discourse. To the extent that the role of ethical leadership is involved, security officers tend to play down their responsibility and refer to that of their organisation. This situation matches with the results of the above mentioned research on the EU SSR Policy and Value Dilemmas.

Security professionals believe that their job has strong ethical and moral connotations, as they see it as a means to fight evil/disorder so as to achieve good/a fair order. Their self-reflection is therefore not the result of an objective analysis on the needs of society and the most effective long-term responses to address them, in light of consolidated ethical principles, but rather the consequence of irrational thinking. In light of this, security professionals admit that threats such as violent extremism or uncontrolled migration flows have been amplified by the media and manufactured for the sake of national political elites. However, they also tend to believe in the existence of such threats; they believe in the exceptionality of the policies they are mandated to implement and consider them as ethically acceptable. Here, security professionals act according to a 'preventive logic'. In this framework, technology may then offer useful tools to settle moral and ethical dilemmas arising out from the adoption of precautionary tactics and methods against *external* threats. Extremists, terrorists and uncontrolled flows of migrants are considered as external threats to the internal social order, under a clear *us vs. them* rationale.

The EU and its Agencies' ethical role in dealing with controversial security practices is undisputed. Security professionals recognise the Union and its Agencies as international actors which can more or less successfully combine ethical values such as humanity, social justice, impartiality and transparency, with efficiency, expertise and integrity, in the implementation of the practices in question.

Our policy recommendations vary from the call for more systematic, international, cross-sectoral and longitudinal research to the introduction of pre-assessment tools for warranting the ethical quality of EU missions and the fostering of an ethics-based climate in security agencies and institutions. A full list of the **policy recommendations** can be found at page 3 and 4 of this report.

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1. Host Institution

WP3 was undertaken in the Department of Governance Studies at the VU University Amsterdam. This department runs a Dynamics of Governance programme. The research group undertakes multidisciplinary research on dynamics of governance of organisations primarily in the public sector. The central objective is to contribute to the development of academic knowledge about governance, integrity and security, which is also meant to lead to improvement in governance and society. In order to accomplish this objective, the group strives towards a nationally and internationally distinguished position in the field of study. Wherever possible, it engages in cooperation with research groups in other faculties, universities and countries. The primary point of reference is the academic community, but other stakeholders are relevant to our work as well (the general public; the institutions studied). For science to make a difference, commitment to social development and improvement is necessary. One of the ways to achieve this is to relate the research (results) with our educational Bachelor and Master programmes.

The programme focuses on a number of important shifts in governance and government: the changes in governance patterns and institutions, the rediscovery of the significance of integrity and ethics for governance, and the entanglement between safety and security and governance. The research questions concern the three elements of the dynamics of governance, their content, causes, consequences, evaluation and relation:

- What is the substance of the dynamics of governance: focusing on changes in the structure of governance, the significance of integrity and ethics, and the salience of security and safety?
- What are the causes, consequences and qualities of these changes in governance?
- How are the three shifts in governance interrelated and what lessons can be learned from the combination of the research and bodies of knowledge in those three fields of study?

The Department of Governance Studies is staffed by about 25 full-time and part-time employees, including Chairs with a specific interest in the integrity of public administration (Prof. Dr. Leo Huberts), security and safety studies (Prof. Dr. Hans Boutellier), and social welfare governance (Prof.Dr. Willem Trommel).

2. Personnel

Prof. Dr. Monica den Boer holds a Chair on comparative public administration at the VU University Amsterdam on behalf of the Police Academy of The Netherlands, with a focus on the internationalisation of the police function. She obtained a PhD in 1990 from the European University Institute in Florence and before she joined the Police Academy, she worked at Edinburgh University, the Netherlands Study Centre for Crime and Law Enforcement in Leiden, the European Institute of Public Administration, Tilburg University, and the European Institute of Law Enforcement Co-operation. She is a Member of the Dutch Advisory Council on International Affairs, and served as a member of the Dutch Iraq Investigation Committee, as well as the Dutch Defence Future Survey Group. In 2010, she completed the Police Ethics Handbook for the Asian European Foundation (ASEF)

and published, together with Emile Kolthoff (eds.) the volume *Ethics and Security*. Most of her other publications focus on (good) governance of "internal" EU security co-operation, as well as European co-operation against organised crime and terrorism.

Dr. Isabelle Ioannides (BA – UVA, Virginia; DEA – IEP Paris; MRes – Bradford; PhD – Bradford) is a Post-Doctoral Researcher on the INEX project in the Department of Governance Studies, VU University Amsterdam. She is also an Associate Research Fellow at the Institute of European Studies, Free University of Brussels (ULB), Belgium. Her doctoral thesis in International Relations and Security Studies from the Department of Peace Studies, University of Bradford, UK examined how the European Union learns from its experience in externally assisted police reform focusing on the case of Macedonia/FYROM. Research interests and publications include: critical approaches to post-conflict reconstruction and peacebuilding; the EU foreign, security and defence policies; international police missions and security sector reform in transitional and post-conflict environments; the projection of EU internal security norms and practices in EU foreign policy; and the Western Balkans. Dr. Ioannides also has substantial professional experience outside academia, having worked for think tanks and NGOs across Europe and in the United States, as well as for the EU, the UNDP and the Council of Europe.

Dr. Matteo Tondini (*Laurea* – Macerata; MA – CASD, Rome; PhD – IMT, Lucca) is a Post-Doctoral Researcher on the INEX project in the Department of Governance Studies, VU University Amsterdam. In the past, he served for the Italian Ministry of Foreign Affairs in Afghanistan and Kosovo as well as in the Italian Navy, being now a naval reserve officer. Dr Tondini is the author of a monograph on justice system reform in Afghanistan and several journal articles on a number of topics in different disciplines. He is also on the editorial board of the Brussels-based *Revue de droit militaire et de droit de la guerre*. His research interests encompass: military/international law, post-conflict statebuilding, international terrorism, use of force, and human rights/international humanitarian law. His list of publications and other research activities is available at www.imtlucca.it/matteo.tondini. Dr. Tondini's memberships include, *inter alia*, the International Institute of Humanitarian Law (associate member), the Italian Society of International Law, and the *Société Internationale de Droit Militaire et de Droit de la Guerre*.

List of Abbreviations

AFSJ	Area of Freedom, Security and Justice
AIVD	*Algemene Inlichtingen- en Veiligheidsdienst* (General Intelligence and Security Service)
Aka	Also known as
BCP	Border Crossing Point
CCK	Criminal Code of Kosovo
CCPC	Civilian Planning and Conduct Capability
CEFTA	Central European Free Trade Agreement
CFSP	Common Foreign and Security Policy
CIR	*Consiglio Italiano Rifugiati* (Italian Refugee Council)
CJS	Kosovo Criminal Justice System
CoE	Council of Europe
CONTEST	(British) Counter-Terrorism Strategy
CPT	Committee on the Prevention of Torture
CSDP	Common Security and Defence Policy
CTC	Counter-Terrorism Command
DG AidCo	General Directorate on Aid Cooperation
DG Dev	General Directorate on Development
DG RELEX	Direction Générale Relations Extérieures (General Directorate on External Relations)
DG	Direction Générale (General Directorate)
DSI	*Dienst Speciale Interventies* (Special Intervention Service)
EC	European Commission/ European Community
ECLO	European Commission Liaison Office
EEAS	European External Action Service
ENP	European Neighbourhood Policy
EPE	'Ethical Power Europe'
ESS	European Security Strategy
EU	European Union
EU SSR	European Union Security Sector Reform
EU-CTA	EU Support to Customs and Taxation Administrations programme
EULEX	EU Rule of Law Mission in Kosovo
EUPM	EU Police Mission
EUPT	European Union Planning Team
EUROPOL	European Law Enforcement Agency
EUSR	EU Special Representative
FRA	EU Fundamental Rights Agency
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
HQ	Headquarters
HRW	Human Rights Watch
ICITAP	International Criminal Investigative Training Programme, US Department of Justice
ICJ	International Court of Justice
ICM	International Civilian Mission
ICO	International Civilian Organisation
ICR	International Civilian Representative
INEX	FP7 programme 'Converging and Conflicting Ethical Values in the Internal/External Security Continuum in Europe'

IPA	Instrument for Pre-Accession
IRA	Irish Republican Army
JHA	Justice and Home Affairs
JTAC	Joint Terrorism Analysis Centre
KCPSED	Kosovo Centre for Public Safety Education and Development
KFOR	NATO Kosovo Forces
KIPRED	Kosovar Institute for Policy Research and Development
KLA	Kosovo Liberation Army
KOCB	Kosovo Organised Crime Bureau
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
MEDA	EC financial assistance for the Mediterranean region
MMA	Monitor, Mentor and Advise
NATO	North Atlantic Treaty Organisation
NCTb	*Nationaal Coordinator Terrorismebestrijding* (National Coordinator for Counterterrorism)
OECD DAC	Organisation for Economic Co-operation and Development, Development Assistance Committee
OSCE	Organisation for Security and Co-operation in Europe
PCCK	Provisional Criminal Code of Kosovo
PCPCK	Provisional Criminal Procedure Code of Kosovo
PVE	Preventing Violent Extremism Programme
RCC	Regional Cooperation Council
RoL	Rule of Law
SCSC	Special Chamber of the Supreme Court of Kosovo
SECI	Southeast European Cooperative Initiative Centre
SEECP	Southeast European Cooperation Process
SO	Special Operations
SOF	Strategic Operational Framework
SSR	Security Sector Reform
TFEU	Treaty on the Functioning of the European Union
TTSRL	Transnational Terrorism, Security, and the Rule of Law
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees (UN Refugee Agency)
UNMIK	United Nations Interim Administration Mission in Kosovo
WP	Work Package

Map of Kosovo
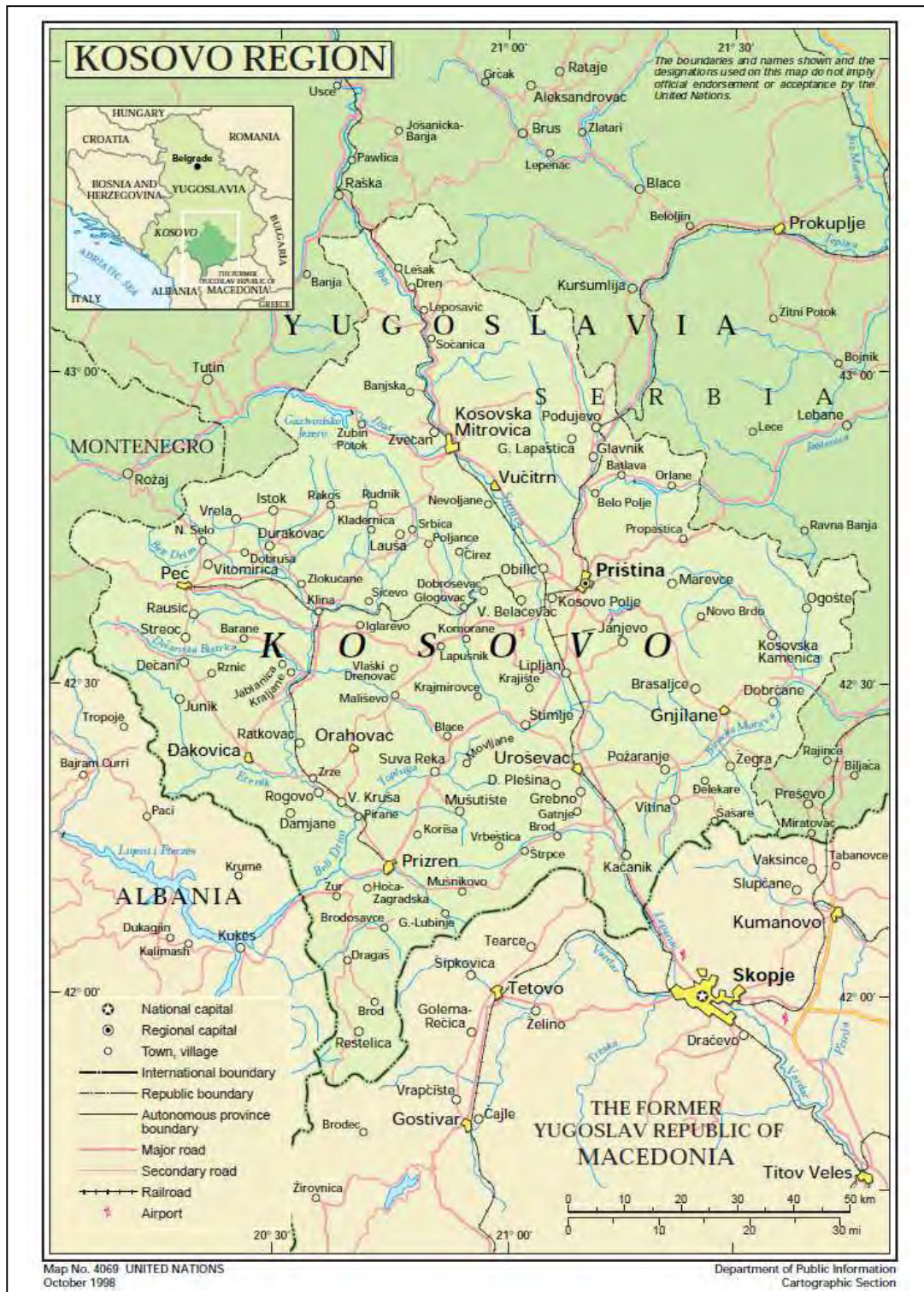
Map of Regions of Kosovo

FOREWORD

This Policy Recommendation report presents the empirical findings on case studies which were undertaken in the context of INEX Work Package 3 "Value-Dilemmas of Security Professionals". The report represents the final deliverable Work Package 3 was tasked with (D.3.4). It follows on a state-of-the-art literature review on ethics research and knowledge among security professionals (D.3.1), a report on the value assumptions and ethical implications of the professionalisation of security in Europe, with a focus on private security values (D.3.2), and a workshop on value dilemmas in security policing (D.3.3). However, we hope that the members of the INEX-community, security professionals in national and intergovernmental agencies, EU officials and academics will take the effort to read through the richness of the empirical data presented

First of all, we believe that ethics and security are intricately related. The topic of ethics and professional values is an extremely sensitive one in security circles. On the one hand, the difficulty to define ethics in a culturally homogeneous manner means that it was challenging to operationalise ethics and measure the ethics climate in different organisational and cultural contexts.

As is usually the case, the research project had to be carried out within certain constraints which we acknowledge. They include: time; funding; organisational context; sensitivity and cooperation; and methodological operationalisation.

Though the entire INEX-project encompasses a period of 36 months, we were faced with the problem that we did not have any researchers in-house who were available, sufficiently qualified or interested enough to undertake the empirical research. We have been extremely lucky to have Dr. Isabelle Ioannides and Dr. Matteo Tondini as post-doctoral researchers for fourteen months each in the Department of Governance Studies. During this very short time, they have developed the research design, carried out the research and wrote this report. Meanwhile, several other academic chores landed in their hands, including the presentation of papers, moderating conference sessions and publications elsewhere.

In terms of the financial endorsement given by INEX, we faced several constraints and challenges. To begin with, there was an underestimation of the financial resources which would be required for the performance of international field research. Dr. Ioannides and Dr. Tondini have worked with extremely tight budgets which did not give them any leeway and which forced them to reduce their fieldwork ambitions. Though the researchers ought to be congratulated for having successfully straddled with this situation, it is also a learning point for these kinds of research projects: never underestimate how much money is required for field research. Unfortunately there was an extremely limited budget for the August 2009 conference (though not an official deliverable, the VU University wanted to interconnect the VU research group with security ethics experts) as well as for the April 2010 workshop. Again, we had to budget rather cautiously and we thank the Department of Governance Studies of the VU University for additional financing.

Having said this, our research team had expected a deeper integration of the INEX research project in the international research portfolio of the VU University and looked forward to building a durable intellectual liaison with the members of the research group. To a certain extent this worked well, as some staff were so kind to dedicate some of their time to our researchers in order to discuss the empirical operationalisation of values and ethics. But a lack of deep and structural anchoring has been due to other factors, including the fragile position of the Chair of the supervisor, who is temporarily seconded to the VU University by the Police Academy of the Netherlands for one day a

week. Throughout the duration of this project, there was no formal extension of her Chair beyond 1 March 2009 which meant she could not contribute to the project in a full-time capacity.

Above, we already discussed the sensitive nature of this research. Though there have been officials who declined our invitation to cooperate, the help and cooperation of our interviewees has been crucial. Hence, we would like to deeply thank relevant agencies and institutions for their support; we are particularly grateful to the individual officers who have kindly disposed of their time to be interviewed. Without them, this report would have had an entirely different nature: it would have been a theoretical exercise, without any ethical reflection from security professionals and without any reference to the actual situation. We believe that the conduct of all the interviews has already triggered reflection and debate, demonstrated by the continued interest several agencies and institutions have shown for our work.

Finally, a word about the methodology and operationalisation. Those who read this report may be a little surprised about the heterogeneity of the cases we have researched, as well as the different questionnaires which were presented to the respondents. The great advantage of this choice is that we have been able to conduct research on several dimensions of the EU security nexus: the internal (counter-terrorism policy); the external (EU Rule of Law missions and the EU as moral agent); as well as the internal-external (repatriation of refugees); at the level of EU member states (a comparative analysis between the UK and Italy); and at an EU level (EU security sector policy as conceived in the EU institutions). The two researchers worked with different field methodologies, though we have taken care of cross-referencing in the research design as well as discussed common ethical values to be reflected upon by the different respondents.

Finally, we wish to thank Jelle van Buuren, MSc and Michelle Zonneveld for doing the preparatory work as well as for delivering assistance to this project. We would like to thank the VU University and its staff for hosting this FP7 INEX project.

Prof. Dr. Monica den Boer

RECOMMENDATIONS

Based on the results of our research, as discussed in this Report, we therefore recommend:

1. Continued research on the application of ethics in security matters, through the establishment of specific research dimensions, including systematic international comparative research, cross-agency research, longitudinal research as well as the identification of good practices;

2. That the security organisations of the Member States and dedicated EU agencies invest in training programmes focused on professional ethics fostering a bottom-up approach, i.e. taking into account reflections, attitudes, behaviours and opinions of their personnel;

3. To increase the accountability of member states' security organisations and dedicated EU agencies towards both the public and their personnel, by requesting the leadership of organisations to release clear statements on the ethical compliance in the implementation of security policies;

4. That the national security organisations of the EU Member States and EU agencies encourage an internal ethics-based climate, incorporating issues such as organisational responsiveness, diversity and transparency;

5. To stimulate an organisational culture in the security organisations of the EU Member States as well as dedicated EU agencies aimed at facilitating the objective analysis of problems and the adoption of policies in the light of consolidated ethical principles, avoiding unsystematic and short-term thinking;

6. To advocate the creation of a tool which allows systematic and profound assessment on the ethical ramifications of each new security strategy or instrument prior to its adoption;

7. To sustain the adoption by the EU of ethics-based security policies, i.e. complying with values such as humanity, social justice and impartiality, as well as by increasing the transparency of relevant institutions and agencies;

8. To include a pre-assessment of the ethical ramifications of the mission in question at multiple levels (on the local environment, the conduct of the mission, and its personnel) based on the values used in this research project in the fact finding missions organised prior to the deployment of a mission/ programme (e.g. a CSDP operation). These values could include: accountability; dedication; effectiveness; efficiency; expertise; impartiality; innovativeness; lawfulness; profitability; responsiveness to EU citizens; responsiveness to third countries; social justice; transparency; and coherence;

9. To consider the ethical implications of ongoing missions/programmes (e.g. a CSDP operation) on the local environment, the conduct of the mission and its personnel – based on the values enumerated above – during the evaluation process of the mission, the debriefing of outgoing security personnel, and during any subsequent renewal of the mission mandate;

10. To create the space for systematic dialogue among EU officials at lower echelons in the European institutions and between those at lower and higher ranks, in order to allow for a clearer contribution from below to the EU policy debate and offer lower ranking EU officials the opportunity to contribute to high-level strategic feedback;

11. To further enhance the mobility of (permanent, contracted and/or seconded) officials working in the in EU institutions (not allowing them to stay within the same unit for more than five years) in order to avoid their bureaucratisation and ensure a constant reflection on value premises of the policies they work on;

12. Every five years, offer a refresher training course to EU officials regardless of their rank (especially those working on security sensitive policies) on the EU code of ethics, EU staff regulations and the values and principles enshrined in the EU Treaties. Such training would help imbue the debate inside the EU institutions and give individual EU officials further incentives to consider the value dimensions of their work.

13. Following on the precedent set in the European Commission on issues of science and new technologies[1] and on governance research[2], institutionalise the issue of 'ethics in security' by creating a permanent inter-institutional unit (serving the Commission, the forthcoming European External Action Service and the European Parliament) that will ensure that EU security policy is in compliance with European codes of ethics and proclaimed principles.

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[1] European Commission President Barroso's European Bureau of Policy Advisers includes the European Group of Ethics in Science and New Technologies, which discusses ethical issues arising from progress in science and technology and offers advice on the preparation and implementation of relevant Community legislation or policies.
[2] The Research Directorate-General includes a Governance and Ethics Unit under the Science, Economy and Society Directorate, which ensures that research in the natural sciences is in line with the principles of ethical research.

PART ONE: SCIENTIFIC HIGHLIGHTS

I. Summary of Results from August Seminar

Work Package 3 organised two international seminars during the course of its activities. The first seminar was held on 28 August 2009, and included several contributions from academic specialists in the field of security ethics. Prof. Dr. Seumas Miller presented a paper on police ethics; Prof. Dr. Desiree Verweij presented a paper on military ethics; Dr. Asbjørn Rachlew spoke on the ethics of law enforcement interviewing; and Prof. Dr. Leo Huberts presented findings on ethics and integrity in public administration. The two convenors of the conference, Prof. Dr. Monica den Boer and Prof. Dr. Emile Kolthoff, asked the speakers to contribute their chapter to an edited peer-reviewed volume, which was published in August 2010 under the title "*Ethics and Security*" (The Hague, Eleven Publishers). This conference was only partly financed by the INEX-programme and supported by research funds from the convenors as well as the Department of Governance Studies of the VU University.

Central theme in this conference was whether ethics and security are intimate friends or have an antagonistic relationship with one another. As we put it in the introduction of our book, security is associated with tough, masculine, primary and instrumental values, whilst ethics is more often associated with soft, supplementary, and pragmatic values. In an era where security measures have undergone a significant expansion, the relationship between the two may be strained. Anxiety about terrorism, organised crime and public disorder have shifted security policies towards wider prevention and selective repression. Multi-lateral co-operation has become more fashionable and has been accompanied by the promotion of public-private security co-operation as well as civil-military co-operation. Technological means have made it possible to subject citizens to an electronic gaze in various contexts of their lives. Despite the creation of a universal international law framework, human rights instruments, accountability and oversight mechanisms, infringements of those rights and rules are daily business in a wide range of security surroundings.

Soldiers, intelligence officials, police officials, traffic wardens, and sky marshals all have to work in situations which bring along particular personal, emotional, physical and humanitarian challenges that may usher them towards conduct which grates over the surfaces of accountability and legitimacy. Generally, security officials – whether they are employed in the public or private sector – are endowed with a power position in relation to citizens. Depending on their functional competences and mandates, they can investigate, scrutinise, question, corner, fine, pursue, prosecute, arrest, injure or even kill individuals who are expected to co-operate in a loyal fashion. These security professional are also exposed to several changes in the security climate: a community police officer may have to expand his focus from ordinary business to the early signs of radicalisation and marginalisation, which may bring him into a different relationship to the citizens who live within that community; an intelligence analyst can use several new technological means to access sensitive data of individuals and may have to find a new balance between his professional and his private opinion; a soldier who partakes in an expeditionary force may be forced to let go of an ethics-based "hearts and minds strategy" in violent encounters with insurgents.

The emergence of new security threats and the wide propagation of the integrated, preventive, proactive, intelligence-based approach has not spurred on a wide debate about a renewed relationship between ethics and security. A first concern which is linked up with the onset of privatised security, is whether equity – a norm which implies that all citizens should equally profit from the benefits of a social welfare state as the prime provider of security – still holds in an era of asymmetric distribution of rights, justice, and security and surveillance. Though proactive

intervention in personal lives seems to have become a widely accepted mechanism, it may gradually lead to the erosion of the presumption of innocence.

A second consideration is that of the creation of a security amalgam that fuses internal and external security, and that has the power to blur previously well-guarded borders between police, military and intelligence services. The blurring between police and military, public and private require new (non-horizontal and pluralistic) accountability mechanisms in which ethics establishes a fundamental cornerstone. Moreover, the blurring of standards may lead to ethical fluidity, but also to a settlement for the lowest common (ethical) denominator. The question is why this should be the case, given the salience of good governance norms through accountability and integrity and ethics, both within governmental environments as well as in external security governance (Security Sector Reform, human rights policing, police reform programmes, etc). If the horizon of our security concerns is subject to constant change, and if this entails the reconfiguration of security organisations and their mandates, an objective and balanced discussion about ethical consequences may be difficult to achieve. Moreover, a performance driven environment may a tendency to look primarily at effectiveness and only in second instance – or at an ad hoc basis – at ethics.

A third consideration is that the role of ethics in security has become even less defined due to the shifting security lines. Governments may have to reconsider traditional anchors of accountability and oversight on security organisations that are increasingly endowed with intrusive, technologically advanced measures. Security professionals may face moral dilemmas in view of their increased competences to monitor and control citizens. Technology designers may have ethical considerations about the potential impact of the surveillance measures they invent. With the vastly increased security potential, professionals – like state authorities - may be in need of new anchors in the face of newly emerging ethical dilemmas.

Security ethics is not easy to define due to the fact that its discourse is embedded in a complex international governance context. The complexity of the security ethics discourse increases due to the diversification of security governance relationships: the intricacy of policing and security requires a complementary "smart", layered and heterogeneous accountability regime. Accountability, ethics & human rights may be taken less seriously in a hardening security climate, which is primarily geared at effectiveness and efficiency. Will ethics turn into a "soft" issue within hard management environments?

II. Summary of Results from the April Conference[3]

In addition, WP3 organised an international conference, entitled "Ethical Dilemmas in the Shifting Security Landscape". This conference was mostly prepared by Prof. Dr. Monica den Boer with the assistance of Michelle Zonneveld, and partially financed from the INEX project, as well as financially supported by the Department of Governance Studies of the VU University and the research group of Prof. Dr. Hans Boutellier (local safety studies). This meant that the seminar was well endorsed within the Department. Due to the Icelandic ash problem, not everyone who was interested could attend however. For the purpose of a public seminar in the presence of university students, the Dutch Minister of Defense, Eimert van Middelkoop, spoke about military ethics. There were three experts who acted as co-referent, namely Koos van der Bruggen (former secretary to the Dutch Iraq Investigation Committee), Prof. Dr. Mient-Jan Faber (former leader of the Dutch peace movement IKV), and Cdr Jean Paul Pierini (Italian Navy). All security professionals, whether or not they occupy

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[3] A full report on our conference may be found on the INEX website at www.inexproject.eu

senior positions, face value dilemmas in some departments of their professional lives. The Minister of Defence used the example of detention of prisoners in Afghanistan, or whether a mission in Afghanistan should conduct an operation against the Taliban if there were a risk of civil casualties. How should the potential effectiveness of cluster weapons be measured against the risk of collateral damage? Within the military sector, decisions often have to be taken about life and death, and the legitimacy of the operations is constantly at stake.

Justice and home affairs co-operation, and police and judicial co-operation in criminal matters in particular, have become an integrated policy area in the external affairs of the European Union. Ethics and values are implicit in the transposition of good governance through various EU-programmes, including external JHA policy and the European Neighbourhood Programme Instrument. The development of an ethics-based good governance policy is in the hands of governing actors. Together, they establish a complex chessboard. The EU increasingly appears on the external security sector as a moral actor, but how does that work in practice? Dr Ioannides provided us with an insight into her first findings.

Several challenges evolve from the co-operation with other regions, e.g. at the level of transatlantic co-operation. Often, the EU makes a plea for upholding human rights as a central value in security co-operation. "Soft" ethics are often contrasted to "hard" ethics. For instance, in the EU counter-terrorism strategy we may face "tied hands" in the fight against terrorism. It was argued by the former EU Counter-Terrorism Coordinator, Gijs de Vries, that for this to happen, we need to address the grievances about injustice. If we do not include human rights and practice what we preach, counter-terrorism will be counter-effective. We face real dilemmas: a) how to ensure a fair trial?; b) what about the right of freedom (of speech)?; c) what about rights when there is no situation of war? In the (European) counter-terrorism strategy, hard choices have to be made.

It has been argued by some of our speakers, particularly by Sophie in 't Veld (MEP) that for the EU, there should be a new policy which places ethics in the middle as the guiding principle for intelligence activities. A challenge for the intelligence and security services is that one has to work by closed procedures (e.g. source protection), as intelligence can be a matter of life and death. This also applies to police practices in view of organised crime investigations (e.g. infiltration). We have to come away from theoretical abstract notion of ethics and make it applicable in professional security environments. It could be argued for the (near) future that all regulations and instruments that are subject to negotiation within the EU, are subjected to an *ex ante* ethics check before they are adopted by the European Parliament.

Issues which were iterated by several of our speakers and respondents concern the need for ethics training and the need for an ethics-based leadership of security organisations. The Dutch Minister for Defence for instance argued that military officers ought to be trained in professional conduct and ethical dilemmas. A soldier needs to be well-prepared for deployment on military operations, so that s/he can deal with ethical dilemmas during the mission. Ethics are also relevant in the context of the work of intelligence and secret services. This includes that intelligence services should strive for establishing the truth and that their work is impartial in nature. Moreover, those who work in the secret services do not only take an oath to not revealing operational data, but also that they protect their sources.

A very important aspect of ethics is also the regulatory framework and the existence of a well-developed oversight mechanism. Transparency enlarges the possibility to control activities of security services. An internal and external reporting and evaluation system is a necessary ingredient in this regard. An example from Dutch practice is that its Law on Intelligence and Security Services entitles citizens may under certain conditions inspect the data the service may have collected about them.

Dilemma´s may present themselves as to the infringement of constitutional or fundamental rights of individuals, who are regarded as a danger to the democratic legal order and state security because of their activities and aspirations. Operational work is usually guided by the principles of subsidiarity and proportionality. But still, the law offers guidelines but does not provide a secret intelligence service with all the answers to ethical questions it faces on a daily basis. Value dilemmas may present themselves which require careful consideration, as we were told by the Director of National Security of the Dutch General Intelligence and Security Agency, Wil van Gemert.

The conference ended with a public session in Dutch, in the presence of several students. The Mayor of Rotterdam, Ahmed Aboutaleb – the first "Islamic Mayor" in Europe – came to the VU University to explain his new anti-radicalisation strategy in an effort to create a cohesive society amidst asymmetric social welfare chances. In a debate with Prof. Dr. Hans Boutellier, he touched upon several ethical dilemmas which may emerge in this security-driven local policy, such as for instance, how far can one go with the invasion of individual privacy in order to prevent radicalisation or even terrorism?

We contend that our research moved from the descriptive level (where values and value dilemma's of security professionals are mapped empirically) to a level of analysis which seeks to deconstruct and unpeel the ethical dimensions of security strategies for the future. An ethics agenda for the future includes items such as security organisation leadership, culture, legitimacy, accountability and moral self-reflection. In terms of research agenda setting, our work package also encountered appeals to (re-) address the ethics of surveillance and data-gathering in the European Union. This applies in the field of counter-terrorism and financial investigation, but certainly in other domains too.

Given several developments such as internationalisation, multi-lateralisation and privatisation, ethical reflections on value dilemma´s of security professionals is no luxury. A crucial question is whether (ethical) values are transforming as a consequence of shifting security challenges. In this report, we seek to validate these assumptions on the basis of empirical research studies, conducted by Dr. Isabelle Ioannides and Dr. Matteo Tondini.

PART TWO: RESEARCH ACHIEVEMENTS

TOPIC A:

Ethical Considerations and Value Dilemmas in the European Union Security Sector Reform Policy and its Implementation: The Example of the European Union Rule of Law Reforms in Kosovo

Researcher: Dr. Isabelle IOANNIDES∗

> "…we must also remain consistent in terms of the pursuit and application of our principles:
> liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law
> - these core values will remain as fundamental in 2020 as they are today."
> *Javier Solana, 2009*

> "Europe is a Union of values.
> That is why we have a responsibility to play an important role in the world.
> There can be no future for this world without many of our values."
> *Herman Van Rompuy, 2009*

I. *Introduction*

1. Background Analysis

The European Union security policy space has been conceptualised as one comprising of numerous actors which compete for power and influence in an attempt to gain support for their particular threat perceptions (Bigo 1996).[4] The prominent literature calling for more coherence and better coordination among these actors has concentrated on *how* they work together (cf. Nuttal 2005, Council 2003, Commission 2006b) and has overshadowed *what* they are cooperating on, that is, the substance and content of policies. Yet, in the last ten years it has become increasingly evident that internal security concerns have undeniably had an impact on the EU foreign and security policy. It became clearer when the EU explicitly acknowledged the existence of a linkage between internal and external security (Council 2005a). Nonetheless, the debate and research on EU external action has centred on the complexities of coordination and cooperation in the EU between external relations and policies, as well as between the EU and other international actors. Few have critically analysed the substance of the EU's mandates, action and performance in the field of the externalisation of the EU 'area of freedom, security and justice' (AFSJ) concerns in third countries – essentially conflict-torn, post-conflict or less developed environments (e.g. Ioannides 2007, Kurowska and Pawlak 2009, Wolff 2009). Furthermore, none have examined (a) the ethical implications of exporting an EU/Western agenda to such complex and fragile environments; and (b) the extent to which a debate on ethics has

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[4] Indeed the perceived external threats have led to "the intensification of institutional interaction and the creation of a greater institutional density surrounding European foreign and security policies" (Smith M. 2006: 29), a process which has invariably been called 'Brusselisation' (Allen 1998, Müller-Brandeck-Bocquet 2002, Smith M. E. 2004), 'Europeanisation' (Coppieters *et al.* 2004) and 'deepening' (Bono 2006a).

a bearing at the policy level within the EU institutions in the external dimension of the AFSJ and the EU's external action more generally. The study undertaken aims to bridge the gap in the literature on these two issues.

In the context of the externalisation of EU internal security concerns, the researcher examined the ethical dilemmas and considerations at play in the EU institutions when planning, designing and implementing activities on the EU's recently elaborated security sector reform (SSR) policy. The research concentrated particularly on the working relationship and converging/conflicting political agendas and approaches (development vs. peacebuilding vs. security) in EU SSR. Empirically, the study examined the implementation of Rule of Law (RoL) efforts (as part of the broader SSR policy framework) carried out by the EU in Kosovo.[5] Overall, the study hopes to draw conclusions on ethical dilemmas that EU SSR faces at a policy level in the design and implementation phases, rather than engage with the issue of individual ethical dilemmas of EU personnel. Thus, the stories collected from individual security professionals are used not to examine ethical dilemmas on a personal level but rather on a EU systemic level. As will be demonstrated below, this approach is in line with the chosen methodology and the clearly defined limits and constrains of Workpackage 3.

Ioannides developed a theoretical framework to conceptualise EU institutions as 'moral agents'. According to the sociological-institutionalism approach (DiMaggio and Powell 1991), the EU machinery – the 'agents' in the EU Brussels-based institutions, its missions in third countries and relevant agencies such as Europol and Frontex – constitute the manifestation of the perpetual social interactions and can play an active role in fashioning the EU rules, instruments and the design, development and implementation of programmes. Institutions "fashion, enable and constrain political actors as they act within a 'logic of appropriate action'" (March and Olsen 2005: 5). These actors are conscious of the abstract principles the EU is committed to, principles consistently referred to in official EU documents and in speeches of EU officials as 'common European values and interests', but also expressed in the EU Charter of Fundamental Rights, incorporated in a Protocol attached to the newly implemented Lisbon Treaty.[6]

Simultaneously, the external role of the EU is articulated in a discourse of universal ethics which defines the EU as a 'power for good' and a 'peacebuilder' in the world. The researcher argues that the adopted approach of 'ethical power Europe' (Aggestam 2008) allows us to understand the ethical underpinnings of the perceived threats to the EU, as enumerated in the European Security Strategy, which define the EU's role in the world. Underpinning this notion of 'ethical power Europe' (EPE) is a conceptual shift in the EU's role and aspirations from what it 'is' to what it 'does'. This shift in the EU's role translates into giving more importance to justifying its behaviour in terms of responsibilities or duties beyond Europe's borders in defence of universal values, such as human rights, physical security, economic prosperity, democracy and social well being. The EU not only tries to entice them through conditionality, but also to convince them of the benefits of our model and values on the basis of shared interests and common challenges (through the usual dictum of 'winning hearts and minds'). The concept of EPE recognises that material interests and ethical considerations tend to be closely intertwined and that the EU therefore may have mixed motivations. Thus, ethical dilemmas are involved as to what kind of foreign policy behaviour is appropriate.

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[5] The territory is referred to as Kosovo i Metohija in Serbian and as Kosova in Albanian. For reasons of simplicity, the predominant international appellation 'Kosovo' will be used in this contribution and should be considered as an abbreviation of the term used by EU institutions, namely 'Kosovo under UNSCR 1244'. The reference to north and south Kosovo will be made to distinguish between the area north of the Ibar river, which is predominantly populated by Kosovo Serbs, and to the south of the Ibar river where the majority of the population is Kosovo Albanian.

[6] The United Kingdom, Poland and the Czech Republic, however, have opted out of this part of the Treaty.

While the impact of established institutional rules and legacies on the implementation of policy choices are expected to be high, the 'logic of appropriate action' – as Aggestam (2008) explains – can also be the result of ethical considerations and value systems. Thus, this study argues that, on the one hand rules could provide a constraining force on ethical dilemmas of EU agents, while on the other, they could also constitute an ambiguous ground where there is a conflict between values and mixed motivations at play. In that sense, when EU foreign policy is being 'fashioned' at a micro-level, some agents seem to have a bigger leeway to consider the ethics behind action and to actively reflect on how to ensure the 'logic of appropriate action', while simultaneously ensuring that the EU abides by the 'European common values and interests'. For instance, at the level of planning and launching a CSDP mission, organising police training in third countries in the framework of EU AFSJ, or designing an assistance programme under European External Assistance instruments[7], the space agents have to consider ethics may vary according to the agents rank, position, and responsibilities, as will be demonstrated. Consequently, EU institutions not only can act as 'moral agents' but also each EU institution may react differently to the link between ethics and material interests.

2. Scope of Research

This leg of the project tackles a new and under-researched phenomenon as it analyses the ethical implications of the use of EU security sector reform as an expression of the AFSJ external dimension. This policy aims to tackle organised and serious crime and deal with fear of terrorism through crisis management and development tools.[8] The newly elaborated EU security sector reform policy is indeed a symptom of the external-internal security continuum. EU SSR sits uneasily between these two policy domains, and uses the instruments of both internal and external EU policies in a parallel manner without making much distinction among the different agendas, institutional cultures and strategic interests from which they originate. As van Buuren (2009: 99) points out, there is a gap in the security literature on "whether security officers enjoy a special responsibility to act as 'moral agents'." In fact, the issue of security ethics has so far been predominantly examined at a theoretical level and has not been applied to the externalisation of AFSJ issues. It has been pointed out in articles (e.g., Wolff *et al.* 2009, Burgess 2009), but has not been dealt with explicitly.

Additionally, only the increased institutional overlaps and reinforced 'functional dynamics' between the European Commission and the Council of the European Union (Derks and More 2009), on the one hand, and the institutional *rapprochement* between crisis management and the externalisation of the EU's internal AFSJ security (Mounier 2009), on the other, have been researched. This study constitutes, first, a substantial update on the existing literature, and secondly and more importantly, an innovative study on the ethical implications of the disappearance of the EU Pillars with the coming into force of the Lisbon Treaty. The stated aim of the Lisbon Treaty to facilitate the design and implementation of more integrated internal-external policies and to greatly increase efficiency in policy-making is important to the extent that internal and external aspects of EU policies are inextricably entwined. Therefore a multi disciplinary cross-policy approach is considered essential for tackling security challenges (e.g. organised crime and terrorism). Such a merging at a policy level will lead operationally to the creation of links between law enforcement agencies and CDSP missions.

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[7] The term 'European External Assistance instruments' is used in the light of the entry into force of the Lisbon Treaty and refers to the instruments of the European Commission in the field of external relations (instruments that will now fall within the remit of the European External Action Service – EEAS). Email exchange with an official in DG External Relations, European Commission, on 15 December 2009.

[8] In line with the OECD-DAC framework and best practices in SSR, in 2005 the Council of the European Union (2005a) adopted an 'EU Concept for ESDP support to Security Sector Reform' followed by the European Commission's (2006) 'Concept for European Community Support for Security Sector Reform'. These were later brought together under a loose and general agenda through a two page policy framework that was adopted in the General Affairs Council in June 2006.

The original aspect of the study will be the analysis of the ethical implications of the merging of internal and external EU security policies at the policy and implementation levels.

The second leg of the case study delves in the ethical ramifications on the design and implementation of EU Rule of Law efforts (as part of the broader EU SSR agenda) in Kosovo. The Western Balkan region provides the clearest illustration of the clash between the immediate pursuit of EU interests and the longer-term promotion of EU values, as high-flown rhetoric about democracy and human rights is overshadowed by an emphasis on practical cooperation on organised crime, trafficking, migration and terrorism. The case of Kosovo is illustrative of this state of affairs at different levels. Although the unclear political status of Kosovo had created a great deal of havoc on what the EU engagement should be there (the launch and deployment of EULEX was delayed numerous times, as its status was and continues to be controversial in the eyes of international actors, including some EU Member States and Serbia), very little has been written on the work conducted by EULEX (e.g. Grevi 2010, Pond 2008). Moreover, Kosovo constitutes an excellent case for the much needed bottom-up approach (van Buuren 2009: 14) to examine how ethical considerations in the EU SSR are played out in practice: whether and how the reasons, principles and values that officially motivated their adoption are subsequently abided by and/or considered by 'transnational security professional', who must implement them.[9]

In order to render the project feasible within the time constraints imposed by the INEX project, the researcher had to set certain limits to her research project. Ioannides acknowledges that her study of Rule of Law implementation in Kosovo focused on outside intervention and external resources, which risks giving too much weight to the role of international and bilateral actors in the successful implementation of the EU RoL policy. It is recognised that internal determinants of successful public security reforms are also likely to be critical. International efforts cannot substitute for the willingness of local actors to renounce violence and make a firm commitment to reconstruction and democratisation. In order to tackle this limitation, the study examined how international actors work with their local interlocutors (the 'local ownership' mantra and the implementation of projects according to the logic of human security) and considered the challenges of this relationship.

Due to limited resources, the study did not adopt a comparative perspective (e.g. examining EU SSR in Bosnia-Herzegovina, which faces similar ethical dilemmas as the ones present in Kosovo). Rather, the researcher concentrated on mirroring the findings and conclusions drawn from her analysis of the EU security sector reform policy at the European level at the operational level (by examining the implementation of EU RoL in Kosovo) (cf. Ioannides 2007).[10]

While the definition of 'European standards' and 'best practice' carry important value premises, for the reasons enumerated above, the study did not envisage the conduct of prolonged research and interviews in the Council of Europe and the Organisation for Security and Cooperation in Europe and the EU Agency for Fundamental Rights (FRA).[11] Both organisations play a role in the definition of 'European policing standards' and thus the setting up of a regulatory framework for ethics in the field of policing. Nonetheless, the issue was examined using secondary sources and targeted interviews

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[9] The code of conduct against which this will be measured are the professed 'European common values and interests' that EU officials and institutions refer to on a daily basis and which are further elaborated in the preamble of the Charter of Fundamental Rights of the European Union (2000).

[10] While the case of Bosnia-Herzegovina could have also constituted a useful comparative case, the (potentially) conflicting relationship between the EU Police Mission (EUPM) and the EU military mission (EUFOR ATHLEA) as well as potential overlap between the two missions has already been documented (Friesendorf and Penksa 2008).

[11] The Fundamental Rights Agency supports policy-makers to make new laws and works to raise public awareness of fundamental rights.

were conducted with officials with the OSCE Mission in Kosovo and the Kosovo Centre for Public Safety Education and Development (KCPSED).

3. Research Hypothesis

The research of Workpackage 3 is embedded in the broader framework of the INEX grant proposal. In that sense, it aims to test the given hypothesis: The internal/external security continuum reflects an encroaching ambiguity of the 'inside-ness' and 'outside-ness' of *security practices*. Here, both the concepts and definitions, and the actual practices by which Europe traditionally differentiates between itself and the threats which it confronts are less distinct. The hypothesis tested is that this picture is only partially complete. Rather, the INEX project suggests that *the practices that make up the internal-external security continuum are driven by an implicit logic of ethical values*, that these values contribute significantly to *structuring* the continuum of security practices, and that they consequentially have *significant implications* for the how present and future security policy should be formulated and implemented.

Ioannides starts from the premise that the EU security sector reform policy has led to a merging of civilian and military tasks through the merging of political agendas – sitting uneasily at the cross-roads of development, crisis management and the external dimension of the EU 'Area of Freedom, Security and Justice' (AFSJ).[12] Therefore, the assumption here is that EU 'moral agents' in their everyday work – either when planning of CSDP missions, the design of European External Assistance programmes, or the organisation of police training in the context of AFSJ – are confronted with ethical considerations resulting from the merging of tools and an increasing need to 'work together' without however having a global EU vision to refer back to or a concrete understanding of what 'European common values and interests' refer to.

At the implementation level (as is the case of the ongoing carrying out of the EU RoL initiatives in Kosovo), the assumption is that mission personnel and more broadly the functioning of the mission is constrained by conflicting security policies from above (originating in EU member state policies and EU politics in Brussels). Political games played from above require CSDP missions (in this case, EULEX Kosovo) to accommodate politics from above with reality on the ground and consequently creates ethical dilemmas in terms of 'appropriate action'. Faced with mixed motivations and the need to accommodate multiple and often competing interests, the mission (and its personnel) is called to balance the professed discourse and adopted policies from above with having concrete results from below. Ethical dilemmas result from having to tackle the often conflicting notions of keeping to the given mandate and policy, while simultaneously meeting expectations of local stakeholders and ensuring the mandate and policy are implemented in a way that they bring positive and concrete results in RoL reforms in Kosovo.

II. Methodology

1. Research Methods

Ioannides' project combined research strategies (triangulation) to examine the validity of conclusions drawn from data. Nonetheless, the methodology used in her study is primarily qualitative. The two

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[12] The Stockholm Programme (Council 2009), for example, explicitly talks of a merging of the internal and external security agenda and more cooperation with CSDP missions. Similarly, the European Security Strategy (Council 2003: 2) asserts: "The post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked."

key research methods used included the analysis of secondary documents and the conduct of 70 (seventy) interviews during fieldwork carried out in Brussels (Belgium), The Hague and Driebergen (Netherlands) and in Pristina, Prizren, Pec, Mitrovica, Gracanica and Vushtrri (Kosovo/Serbia) (*see map of Kosovo*).[13]

2. Literature and Other Sources of Information

The study first undertook a critical engagement with the existing literature on the role of the EU as a moral agent, EU security sector reform design and implementation, and EU RoL efforts in Kosovo. This was done through the collection of relevant material from an academic and policy perspective; the study of EU policies and instruments available for carrying out SSR; and the study of relevant books, articles and local analyses on security assistance and peacebuilding in Kosovo.[14] Furthermore, surveys which included relevant quantitative data and were prepared by independent consultants for the international organisations stationed in Kosovo (covering such issues as the training offered to the Kosovo police, prosecutors, judges, and on public perception of RoL) were also collected.

Due to the nature of the topic and the limitations of the literature (*see section I.3. on scope of research*), the researcher carried out extensive field research in Belgium, the Netherlands and Kosovo, including non-participatory observation, including the conduct of 70 interviews. The key method used was semi-structured face-to-face interviewing (except for one respondent who was interviewed on the phone) and focus groups. Some interviews were continued through email exchanges to answer follow up questions.

The interviewing procedure was facilitated through the use of a questionnaire, which was used as a template covering the main focus areas of her research and which was adapted for each interview.[15] The questionnaire first outlined the objectives of the research and included questions organised around five core areas of interest: (1) the political agendas of EU internal and external policies; (2) general questions about values in the targeted Unit in the given EU institution and/or relevant actor in Brussels and Kosovo (a short survey was used, which is presented in the next paragraph); (3) the relationship between decision-making and values; (4) ethical dilemmas and conflicts within the Unit and on a personal level; (5) similarities and differences of values across EU institutions. The interview lasted from 1.5 to 2.5 hours. Some interviewees accepted to be interviewed twice or more times.

The researcher also prepared a one-page survey which she handed out to the interviewees during the interview. It asked respondents to rate a number of values (the definition of each value was included) according to importance.[16] The values included:

accountability	dedication	effectiveness	efficiency	expertise
impartiality	innovativeness	lawfulness	profitability	responsiveness to EU citizens
responsiveness to third countries	social justice	transparency	'other values'	

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[13] Ioannides had planned to carry out complementary interviews in Vienna, Austria with officials at the FRA and the OSCE (as a step over during her trip to Kosovo), but the visits were cancelled due to budget limitations. The fieldtrip would have been useful for further exploring the definition of 'European policing standards', thus the values underpinning the EU way of doing police reform in conflict-torn societies. A choice was made to ensure that all relevant actors working on SRR in the EU institutions in Brussels were interviewed.

[14] See selected references in Section VI of this report.

[15] Ioannides' questionnaire is annexed to this report.

[16] The survey is included in Section VIII.

This latter option allowed interviewees to further reflect on values that may be significant in their work and gave them the opportunity to voice their opinion on which value considerations underpin their work. The values included in the survey were selected from the EC Staff Regulations (2004) and key EU documents and speeches both at Commission and Council level.[17] The survey was important in providing concrete guidelines to the interviewed on what is meant by values in this leg of the project and for eliciting information. It retained its significance in the analysis of data: this report, as the reader will see, is organised according to the values presented in the survey. Each section develops the ethical dilemmas faced by the EU (either at headquarter level or at implementation level in Kosovo) in the featured value.

3. Selection of Respondents

Targeted 'security professionals'[18] in the case study on ethical dilemmas faced in the EU SSR policy included policy officials at different echelons in the European institutions in Brussels, working specifically on the design, programming or implementation of EU SSR projects. Due to the limitations of the budget, the primary objective was to interview the main direct actors from each relevant Unit and DG in the European Commission and relevant Units of the Council Secretariat. These consisted of the Directorate General (DG) on External Relations; DG Development; DG Enlargement; and the EuropeAid Cooperation Office, all in the European Commission. Relevant Units in the Council General Secretariat included the Civilian Planning and Conduct Capability (CCPC), the Military Staff, DG E IX (Civilian Crisis Management), liaison officers for EULEX, and the JHA Unit. In addition, interviews were conducted with officials in EU member state representations who could discuss their perception of which values were important in each EU institution/Unit working on security sector reform (as a result of working directly with the EU institutions on this issue).[19] In The Hague, interviews were conducted with researchers from Clingendael who prepared a comprehensive report on the instruments, workings and effectiveness of EU SSR policy.[20] The researcher's request to interview officials working on governance and external relations in Europol was turned down on the grounds that "Europol is not the most suited actor to answer your interesting questions on ethical considerations".[21] Overall, Ioannides conducted 24 interviews for the case study on shifting ethical considerations in the EU SSR policy design (out of which 19 respondents participated in the survey).

In support of the second part of Topic A examining ethical dilemmas in the implementation of EU RoL efforts in Kosovo, 46 interviews conducted (of which 21 surveys were filled in) in Brussels, the Netherlands and Kosovo with officials who participated in the EU Preparatory Team and/or EULEX Kosovo.[22] Specifically, in Kosovo, where the bulk of raw data was collected during a five-week fieldtrip (26 April to 30 May 2010), semi-structured face-to-face interviews were conducted with international and local police officers, prosecutors, judges, officials working in the relevant international missions, local and international NGOs, human rights organisations and the local academic community. Targeted interviewees in Kosovo included EU officials (EULEX, the EU Special Representative's Office/International Civilian Office and the European Commission Liaison Office to

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[17] These documents include: the European Security Strategy (2003) and the Commission communication (2006b) entitled *EU Aid: Delivering More, Better and Faster*.
[18] Ioannides loosely defined the term 'security professionals' to include all those officials who are involved in the design, implementation, policy-making and/or decision-making processes of security sector reform and its constituent parts (RoL being one of them).
[19] For further information, please see the list of interviewees in Section VII of this report.
[20] These researchers did not participate in the survey part of the interview.
[21] Numerous officials working in the Council Secretariat General, however, have pointed out that they consult with Europol on CSDP missions and that cooperation between the two institutions is increasing. Email correspondence with Europol, 12/12/2009 to 14/01/2010.
[22] For further information, please see the list of interviewees in Section VII of this report.

Kosovo), the OSCE Mission in Kosovo, KFOR, UNDP, local interlocutors (the Kosovo Centre for Public Safety Education and Development, the Ministry of Interior, the Ministry of Justice and the Ministry of European Integration), and independent experts and academics working on EU security sector reform and peacebuilding. The UN Mission in Kosovo maintained that it did not to have time to meet with the researcher and all officials working for the OSCE Mission to Kosovo asked not to be cited or quoted in the author's publications. The US Embassy in Kosovo and the ICITAP of the US Department of Justice were not interviewed for this report, an acknowledged limitation. The author hopes to incorporate their opinions and knowledge in future research.[23]

During her stay in Kosovo, Ioannides was based at the Kosovo Institute for Policy Research and Development, a local think tank in Pristina.[24] This arrangement offered access to local interlocutors in the civil society and relevant Kosovo institutions, and facilitated logistical organisation (transport within Kosovo and the provision of translation services).

Similar to most other conflict-torn settings, the reconstruction and institutional reforms in Kosovo are largely centralised processes. Although based in Pristina, where all relevant international actors and government officials (the main interlocutors) are located, trips were organised to the north and south of Kosovo (strongholds of Kosovo Serb community and therefore areas where there is resistance to international assistance) to interview relevant stakeholders.[25] In parallel to interview transcripts, the researcher also recorded personal impressions on the conflict, violence, and setting.

4.   Criteria for Judging Results Arriving at Recommendations

In line with and in response to the hypothesis, the researcher first sought to identify the value and ethical premises that could contribute significantly to *structuring* the continuum of security practices, and that could consequentially have *significant implications* for how present and future security policy could be formulated and implemented. Consequently, she read through the core documents that define the underpinning values in EU security policy, EU official documents (prepared by the European Commission and the Council General Secretariat on the EU SSR), speeches of the President of the Commission, the EU High Representative for the CSDP and the EC Staff Regulations (2004) so as to identify and chart the most important values defining the work of EU 'security professionals' on EU SSR and EU RoL in Kosovo.

Having ascertained the official EU discourse on value considerations in EU foreign policy, the researcher verified its application through extensive interviewing. The specificity of the area of research in combination with the considerable number of interviews ensured the verifiability of results. Verifiability/credibility was further guaranteed through a process of triangulation: results of the research were checked against existing literature and the remarks of EU officials were compared to information collected through interviews with officials outside the EU institutions who work with a particular EU official/respondent or are twinned in the same service/unit as the given EU official/respondent or share the same dossier as the EU official/respondent in question.

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[23] It is worth noting, however, that international donors in Kosovo were not forthcoming with sharing contacts in either the US Embassy in Kosovo or ICITAP.
[24] Kosovar Institute for Policy Research and Development (KIPRED),in Pristina, www.kipred.net
[25] Ioannides spent four days in Mitrovica (particularly in north Mitrovica) to meet with relevant local and international interlocutors.

5. Confidentiality, Anonymity and Coding

Interviewees who participated in this study were asked to sign a consent form, which constitutes an agreement between the author and her interlocutors defining how the collected information will be used and whether (and if so, how) the name of the interviewee will appear in future publications by the researcher and the text and annex of this report.

The consent form provided respondents with three options. The first option 'I would like to remain anonymous' requires that the interviewee's name does not appear in any of the researcher's publications and that he/she is not directly cited or quoted in any publication (28 respondents chose this option). The second option[26] refers to the interviewee's name figuring in the list of interviewees at the end of this report, while, however, not appearing anywhere in the text (28 respondents opted for this preference). Accordingly, the public would know the author spoke with a particular respondent, but would not be able to trace an argument back to him/her. A final and third option was given to interviewees, that of being both cited and quoted, a preference adopted by a mere seven respondents (of which one asked to check the wording of the particular quote, if directly quoted).

The option to remain anonymous was offered to interlocutors as it is widely held that anonymity is likely to produce 'truthful' and candid responses. Especially in conflict environments, such as Kosovo, interviewing can be perceived as an interrogation and participants might not allow it to penetrate beyond a certain level of generality. Moreover, it is important to recognise that it is difficult to obtain unbiased data in conflict settings, as participants usually manipulate it through their personal traumas with war. Thus, a researcher is faced with as many explanations and visions of the conflict as the number of participants he/she interviews. To encourage interviewees to speak freely, interviews were therefore not taped; rather, the researcher took notes during the encounter. Additionally, no technical equipment is allowed in the EU security buildings (particularly in Brussels), which made it impossible to tape the interviews. Mission staff in Kosovo is often contractually restricted from giving interviews (thus this exercise is already against the values endorsed by their respective institution) and therefore taping was impossible. This latter point also explains why such a large number of respondents chose to remain anonymous (i.e. not only not be quoted, but also not be cited).

While interlocutors were offered the opportunity to look at the transcript of their interview, none of them requested to do so. Interviewees were promised complete anonymity, meaning that no one but the researcher who undertook this study would have access to the research notes and interview transcripts. Last but not least, the results of the surveys will not be extrapolated into diagrams or used in a way that would suggest that they are representative, since the sample used is minuscule and not necessarily representative of the EU work on SSR *per se*.

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[26] It reads: "I accept for my name to appear in an Annex of the 'End of Project Report' that will be submitted to the European Commission in October 2010, as part of the agreed upon deliverables for this project".

III. Case Study 1: Ethical Considerations in the EU Security Sector Reform Policy

1. Value Dilemmas and Objectives: An Analysis of EU Security Sector Reform Policy

EU security sector reform (EU SSR) constitutes an interesting 'institutional field', to use DiMaggio and Powel's (1991) term, to explore the ethical dilemmas that emerge from the externalisation of the EU internal AFSJ agenda. A close examination of the logic and development of the EU SSR policy demonstrates that, while it is solidly grounded in the discourse of bringing coherence in EU external action, it is also a consequence of: (a) the 'hardening' of EU foreign security through the securitisation of the development policy;[27] (b) the creation of hybrid security practices.[28] In this light, the EU SSR policy triggers a number of ethical questions, which have been absent so far from the academic debate, as it has primarily concentrated on coherence, cooperation and coordination between the EU institutions (e.g. Derks and More 2009).

The potential ethical contradictions are evident when trying to define the agenda of EU SSR, which is fraught with misconceptions. The adoption of an EU SSR policy was conceptually closely related to the so called human security discourse[29] and seen as following the OECD DAC's developmental agenda. It is therefore presented as constituting a holistic process that focuses on the overall functioning of the security structures, with the objective of addressing governance deficits, strengthening transparency and democratic accountability rather than simply improving their effectiveness. Yet, using EU SSR as a new avenue for action, the EU has invested considerable resources into efforts to tackle perceived transnational threats outside the EU's territory as identified in the European Security Strategy (organised crime, regional conflicts and state failure[30]) that are said to threaten the EU's internal security, in parallel to its current external security assistance that encompasses statebuilding, post-conflict reconstruction and larger development policies.

The EU has done so primarily by enhancing crime-fighting and border-control capacity in third countries. Particularly in the context of the MEDA funding line and several MEDA AFSJ projects in the field of police and justice training (see Wolff 2009, Joffé 2008), EC projects primarily have internal security implications and relatively little to do with the EU's larger democracy and development agenda in the field of SSR. Monar (2008: 134) agrees that EC reforms in the Mediterranean were targeted primarily at capacity building in the fight against illegal immigration and cross-border crime with a focus on drug trafficking and terrorism. "Very closely related to the EUs internal security objectives and priorities in the context of the AFSJ" (*Ibid.*: 135), their link to the wider security sector

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[27] Securitisation, a theory developed by Ole Wæver (2004: 13) happens when "labelling something a security issue that it becomes one". Essentially this means that when an issue which is not out rightly perceived as being part of the realm of security is defined as a security issue, it is moved out of the sphere of normal politics into the realm of emergency politics, where it can be dealt with swiftly and without the normal (democratic) rules and regulations of policy making. For the content of security this means that it has no longer any given meaning but that it can be anything a securitising actor says it is.

[28] In other words, there is an attempt to reshape CFSP through institutional restructuring and the introduction of new ideas, norms and procedures so that its underlying objectives become the fight against alleged internal and external threats (Bono 2006a: 155). It has meant that internal security policies are seen to contribute to the general political objectives of the Union's external policy and external security policy tools should be compatible or, better still, create synergies with internal security policy objectives.

[29] Thus, SSR allegedly goes beyond the mere notion of effectiveness of the military, police or justice institutions.

[30] "Europe is a prime target for *organised crime*. This internal threat to our security has an important external dimension: cross border trafficking in drugs, women, and illegal migrants and weapons accounts for a large part of the activities of criminal gangs. It can have links with *terrorism*" (Council 2003: 11). Also see, ESS (2003: 10): "Conflict can lead to extremism, terrorism and state failure; it provides opportunities for organised crime."

governance agenda is by approximation, rather than by design. Similarly, CSDP missions – all of which deal with security sector reform whether civilian, military or both – encompass the fight against organised crime and trafficking as a key feature (e.g. an objective or a potential or existing threat).

Beyond the EU programmes and missions, the gap between discourse and practice is also evident in discussions within and between the EU institutions. Dissenting voices in the European Commission talk of a move towards the securitisation of development and finger point the European Security Strategy for promoting this idea (Ioannides 2007). Indeed, in the European Commission, the development arm in the EU's peacebuilding efforts, resistance to endorse SSR has been more visible. Until 2005, as development evaluations demonstrate (Mackie *et al*. 2005), security sector reform was not a prominent element in EU development policy and in many respects was limited to technical and financial assistance. In the initial phases of the drafting of an EU SSR policy, the development community in Brussels in particular (EU officials and non-governmental organisations) was hostile to the very use of the word 'security' in the SSR acronym and saw this approach as a way to divert resources allocated for development assistance towards security-focused and counter-terrorism programmes. European Commission officials in particular considered SSR a '*woolly*' term, borrowed from the OECD-DAC to offer a new framework for AFSJ issues. From their perspective, the EU SSR framework did not appear to amount to much, but rather added confusion to a process already in progress. This was especially the case in the Western Balkans, where countries have for over a decade been in the process of reforming the police, justice and prison systems in the context of the EU enlargement process, working towards meeting the requirements outlined in the AFSJ chapter of the *acquis communautaire* (Ioannides 2007).

It is worth noting, however, that five years later, the discourse in the European Commission has shifted. While there is still a tendency to hold on to the developmental argument, even officials in the DG Development admit that there was need to adopt a more realistic and strategic approach to SSR that would ensure EC interests and guarantee its continued consultation and participation in security projects. The securitisation of SSR in the European Commission was also generated by the inter-institutional turf wars with the Council Secretariat and the momentum and uncertainty that the ratification and put into action of the Treaty of Lisbon created.[31] In addition, when one looks at the professional background of EC officials working on SSR, one notices that many have worked on hard security issues (arms non-proliferation, for example, and have moved to DG Development from DG RELEX).

At the Council level, the underlying role that Ministers of the Interior can play in EU crisis management is also relevant. One could argue that the internal security agenda of Ministers of the Interior determine to a certain extent the EU's crisis management objectives. The importance given to such bargaining games lies in the fact that it is actors and resources from the AFSJ (such as police, judges and prosecutors) – therefore actors who abide by the EU internal security objectives – that carry out security sector reform activities in conflict-torn and post-conflict environments (under the crisis management label). Moreover, the Council's main AFSJ policy-making working groups – for example, the Article 36 Committee or the Police Cooperation Working Party – also contribute to the design and development process of EU crisis management, even if indirectly. Regional and thematic task forces across the EU external relations and AFSJ policies, such as the 'Working Group on Organised Crime in Bosnia-Herzegovina', were created within the Council General Secretariat, therefore enabling greater cross-fertilisation among experts.[32] The ethical concerns that emerge in this instance result from covertly promoting an agenda on crime fighting and the protection of EU

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[31] Interviews with EC officials, in Brussels, on 12 February 2010.
[32] Interviews with Council General Secretariat officials, in November 2009.

internal security (interests) through an agenda that preaches 'the power for good' (going back to Aggestam 2008).

The sub-sections below provide a sample of results on the most important values – from those included in the author's survey – according to respondents' choice of value priorities. A full analysis will follow in an academic journal. The following conclusions were drawn from a sample of interviews provide an overview of value dilemmas that EU officials face during the policy-making process on EU security sector reform.

2. Accountability

The value of accountability – defined in the author's survey as to "act willingly to justify and explain actions to the relevant stakeholders" – was considered important across the board. The priority seemed to be on internal accountability (control mechanisms inside the EU) but also on recipients of EU funding meeting financial requirements and satisfying evaluation procedures. Each institution, whether it has set procedures or not, has an internal mechanism of control and for assessing/ ensuring control over actions, EU officials explained. They argued that it is important to be able to justify and explain *what* action was taken and *why* it was taken. Thus while accountability was linked to lawfulness – in that legality is perceived as ensuring that accountability is respected – EC officials maintained that the debate goes beyond what is legal and/or illegal.

The personnel in intergovernmental organisations (e.g. the RCC) and diplomatic missions, who act as negotiators, mediators or facilitators in their relationship with the EU, considered that they need to act with flexibility while at the same time being aware of the responsibilities, the consequences of their actions and the way these will be perceived by third parties.[33] It implies understanding accountability and lawfulness – defined in the survey as acting "in accordance with existing laws and rules" – in a flexible manner. This situation is also indicative of the fact that interests fluctuate and impartiality (defined as to "act unprejudiced, unbiased by specific group interests") is compromised. Especially for those in senior positions and in diplomatic missions, personal ethics and moral codes are confused with professional ethics and there is sometimes a greater urge 'to do good' than strictly follow procedures. Nonetheless, it is inevitable (and this is something the interviewees openly accept) that donors have an agenda that they impose on third countries. The factors that decide how much a donor can impose its will include money, political clout, size, and representation in decision-making. Profitability therefore is a driver for action, but beyond accountability, it is also connected to effectiveness ("act to achieve the desired results").

3. Effectiveness

The SSR concept, borrowed from the OECD, was the result of an effort to systematically rationalise the give and take between EU instruments and concepts. The sought after aim was to create an umbrella framework for numerous concepts and instruments. However, while institutionally it may have streamlined instruments used for security, conceptually it seems to have been drowned by other larger and more encompassing terms, such as 'democracy support', 'democratic governance' and 'peacebuilding'. Essentially, the model for action on EU SSR seems to be 'think holistically, act fragmentally' also puts into question the notion of effectiveness both as a value and as a strategy for action.[34]

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[33] Interviews with the RCC and EU Member State Representations, in Brussels, in March-April 2010.
[34] Interviews with EC officials (DG AidCo and DG Dev), in Brussels, in March-April 2010.

EC officials in DG AidCo, who deal with the management cycle of SSR projects, explained that while SSR was conceived as moving EU external action towards a comprehensive and integrated approach, it has not been feasible to apply this concept 'holistically' in practice. What actually happens, according to a police officer seconded in DG AidCo, is that European Commission officials "wear an SSR hat when they do their work".[35] The approach to doing security has changed in general, in that while in practice it may look like the Commission still concentrates on single elements of SSR (this is in effect true), it conducts a broader analysis of the security situation in a conflict-prone/conflict/post-conflict environment.[36] The team on Governance, Security, Human Rights and Gender in DG AidCo consists of quality management officers whose job is to engage in a screening exercise of all security projects implemented by EC Delegations and ensure that the SSR framework/ philosophy ('thinking holistically') is incorporated. It therefore implies that effectiveness is of great significance in their work and that there is active thinking on this issue.

The only programme in the European Commission that is actually labelled as "security sector reform" is the JLS programme in Honduras. An examination of the project fiche, however, demonstrates that the programme on "Support to the Security Sector in Honduras" essentially tackles deficiencies in the rule of law institutions (justice, police and prisons). Interestingly, the Ministry of Interior in Honduras is called Ministry of Security, which seems to have influenced the choice of name for the programme.[37] There is no uniform manner for naming SSR programmes since the EC, as explained, in practice follows a fragmented sectoral approach to SSR, despite the proclaimed holistic approach to security. Thus, we find SSR projects under the label of support to police, justice, prison reform, good governance, rule of law, and support to democratisation.

From the perspective of the Council General Secretariat, SSR is now dealt with in a 'holistic' manner even though institutionally it was placed under the civilian arm of the Council. The proclaimed merit of this approach is effectiveness. However, the Council General Secretariat, similar to the European Commission, still deals with SSR in a fragmented way: for example, since the publication of the SSR concept, the Council General Secretariat has published a new concept paper on police strengthening missions, thus demonstrating that the Council still thinks in terms of fragmented crisis management policies. When prodded on this issue, Council General Secretariat officials admitted that SSR was a conceptual policy framework rather than a plan of action and effectively meant that the rethinking of the different legs of crisis management should be done within this framework.[38] Thus, relevant concept papers are being updated in view of the new EU SSR policy attesting to the importance of effectiveness.

4. Efficiency

The art of achieving maximum results with minimum means has not been mastered by the EU (or the Regional Cooperation Council, for that matter). Numerous interviewees noted that they do not feel constrained by the budget available and some admitted that much money is wasted because there is no pressure not to waste: it seems that it is better to be seen trying to do something rather than do nothing, even if the project in question is badly organised and/or not producing the promised and proclaimed results.[39]

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[35] Interview with EC official 1, DG AidCo, in Brussels, on 30 March 2010.
[36] Interview with EC official 2, DG AidCo, in Brussels, on 30 March 2010.
[37] Email exchange with EC official, DG Relex, in Brussels, 19 February 2010.
[38] Interview with official 1, Council General Secretariat, European Union, in Brussels, on 23 November 2009.
[39] Interview with EC officials and RCC official, in Brussels, in April 2010.

It was also noted that it is badly seen to have to return money granted to recipients back to donors. Such action is interpreted by the European Commission as the recipient not having the required expertise to carry out the project, rather than the recipient having completed a project in an efficient manner. Other negative interpretations of funding being returned to the donor include: recipients not engaging with the project activities diligently and/or having lied about the budget needed for carrying out activities. In fact, by returning money, the recipient states reduce their chances of having access/receiving more funding.[40]

5. Innovation and Expertise

Seconded personnel working in the EU institutions, in particular, freely admit that the EU lacks expertise on security sector reform (both conceptually and at an operational/tactical level). This is why seconded experts are very much needed in the EU institutions.[41] While some training has taken place in the European Commission on this issue, it was limited in scope, reach and time.[42] The knowledge and even talent of some EU officials is constrained by the bureaucratic nature and cumbersome procedures of the EU institutions; and the fast pace and amount of work does not give EU officials the time and space to think about their work. Simultaneously, it is felt that there is great need for innovation since there are many dossiers to manage and the problems at hand are complex and require new ways of dealing with them.[43]

Across the EU institutions – European Commission and Council of the EU – officials accuse each other of lack of innovation. EC officials consider that since local ownership is ingrained in their projects, European Commission interests are hidden and they receive better reviews from locals (than the Council of the EU). EC officials also feel they have more of an opportunity to innovate. European Commission officials consider that the ESDP has a standard way of conducting its work, that they always do the same projects and organise their work in the same manner along the "monitor, mentor and advise" formula. Hence, EC officials felt that the Council Secretariat is not an innovator.[44]

On the other hand, Council General Secretariat officials considers that the European Commission is a cumbersome organisation, a budget manager and an outsourcer incapable of innovation since it does not share the Council's hands on approach. The advisor from the RCC Liaison Office observed that the EC is out of ideas when it comes on designing SSR projects for the Western Balkans. Overall, it is believed that the EC "is losing credibility in the region; they [the Western Balkan countries] are tired of 'train the trainers' programmes".[45] The RCC, for example, claimed that outside expertise is much needed so as to provide new ideas and to steer the reform process. This is one of the roles the RCC plays because it is in constant communication with relevant actors from the region. More positively, this also demonstrates that the EC recognises its limitations and realised that it does not have the necessary knowledge to further the reform process in the Western Balkans, a region which "has progressed faster than the EU expected and which can no longer be satisfied by rudimentary reform programmes and training" without outside input.

The difficulties felt particularly in the Balkan context are also due to the progress that the region has made with time. Hence, representatives from the Western Balkan countries are now senior level/ executive officials from the Ministries of Foreign Affairs, the Interior and Defence who are not

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[40] Interview with international donor, in Brussels, in April 2010.
[41] Interviews with EC and Council General Secretariat officials, in Brussels, in November 2009 and March 2010.
[42] Interview with EC official 2, DG Relex, in Brussels, in April 2010.
[43] Interviews with EC officials in DG Dev and DG AidCo, in Brussels, in March and April 2010.
[44] Interviews with EC officials 1,2 and 3, DG AidCo, in Brussels, in February 2010.
[45] Interview with international donor, in Brussels, in April 2010.

politically appointed (but rather bureaucrats)[46]: they are young, foreign educated, multilingual. They no longer just listen in meetings, but actively participate, ask questions and are required to submit their contributions and recommendations in advance of a meeting.[47] As noted by a few respondents, "the [Western Balkan] countries have grown up and the nuances of cooperation are discussed". Hence, the EC is called upon to use innovation so as to live up to these (new) expectations.

6. Lawfulness versus Competences

The importance of acting "in accordance with existing laws and rules" seems to fluctuate according to the position (hierarchy) of the official and the institution. The EC is clearer about its stance on the issue: there are clear procedures to follow and officials (*fonctionnaires* and contractual agents), who have taken an entry exam to work in the Commission and have been tested on the EU Code of Conduct, follow these procedures. Seconded personnel (for example, national dispatched agents) have a more flexible relationship with the issue of lawfulness: they feel there is a need for elasticity in order to deal with the complexity of extreme poverty (in Africa) and conflict (in Africa and the Western Balkans).[48]

In both the European Commission and the Council General Secretariat, it seems that the limits of the respective institution's competency do not necessarily define its value system. First, both institutions are constantly trying to expand their competency. The EC justifies its sectoral approach to SSR on the fact that it cannot engage in military aspects of the SSR. It is therefore through the limits of its competency that the EC defines its values on SSR as being civilian and development oriented. Competency issues are expressed in terms of lawfulness and the perception of competency (whether the EC be allowed to launch a certain activity) as legitimacy.[49] While the more technical arm of the EC does not seem to be aware of the precise extent of its competency – for example, that it could tackle the management reform and oversight of the military, the training of military in human rights, engage in demining, and the non-proliferation and control of small arms and light weapons (SALW) – the more policy oriented part of the Commission (DG DEV and DG RELEX) try to maximise the remit of their action.[50] These are the parts of the Commission that tend to fight the turf war with the Council General Secretariat, try and advance the EC interests and – to a certain degree – push the boundaries of its competence.

In the Council General Secretariat, which is a more political EU institution, personalities/individuals seem to affect values and negotiate competence. Council General Secretariat officials claim that operationally the organisation and implementation of SSR is unclear. In comparison, for example, to how the United Nations works on the issue – an organisation which has increasingly become a beacon of inspiration for the CSDP and a frequent partner in the conflict theatre – the EU is constrained by EU Member State needs, wants and demands. The argument here is that the bottom line of the confusion of Pillar competences and inter-institutional contest is due to EU Member State competition.[51] The most recent manifestation of this phenomenon is how the structure and the kind of personnel that will be included in the European External Action Service is being negotiated with the entering into force of the Lisbon Treaty.

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[46] This fact is important in that these officials do not serve party interests, but rather represent the values of their organisation and the national position/ strategy of the country they represent.
[47] Interview with RCC official, in Brussels, 8 April 2010.
[48] Interview with EC official 3, DG AidCo, in Brussels, on 12 April 2010.
[49] Interview with EC officials in DG Dev and DG Relex, in Brussels, in November 2009 and March-April 2010.
[50] Interviews with EC officials in DG Dev, DG AidCo and DG Relex, in Brussels, in November 2009 and March-April 2010.
[51] Interviews with the Council General Secretariat officials, in Brussels, in October and November 2009.

Competency is also linked to effectiveness. EU action in Kosovo is a case in point. The EULEX mission is particularly sensitive since only 22 out 27 EU Member States have recognised Kosovo independence and the strategies are highly politicised and sometimes unworkable since they are hostage to an unclear EU policy. In addition, when one looks at the missions deployed in Kosovo, one realises that there are five father figures; it is therefore difficult to know who is in charge. The conflicts between the Commission and the CSDP mission in Kosovo are to a great extent the result of personal disagreements. In the Council General Secretariat, unlike what would happen in the United Nations, every technical aspect of a mission is examined by the EU Member States (even on a daily basis) and is therefore subject to political games. Council experts/officials have leverage in areas of their expertise, but if there is an aspect of capacity-building which the Commission feels that it falls under its own competency, then the Commission reacts.[52] The blurring of tasks between the two institutions is not an unusual occurrence. At this point, power politics play an important role: internal security interests and national interests, as well as strong personalities and leadership. Ultimately, Council General Secretariat experts only have a consultative role: their advice may or may not be taken on board and the final decision is taken at EU Member State level. This situation was characterised as frustrating and is an indicator that reduces their dedication. In these circumstances, (especially) seconded staff in the Council General Secretariat conduct their work according to their own professional norms, which they characterise as "international standards in policing" (not particular values of their own national system) and which they define as "apolitical".[53]

7. Profitability

Undeniably, development is being securitised in the European Commission, a phenomenon which is no longer contested and opposed to as it was in the mid-2000. Granted, there are still many proponents of development in the EC and its approach (due to the limits of its competences) remains development oriented.[54] Thus, overall, security still has negative connotations. Nonetheless, the resistance found in the security discourse in 2005/2006 is no longer as widespread. The inter-institutional turf wars between the European Commission and the Council General Secretariat, and the momentum and uncertainty that the ratification and implementation of the Treaty of Lisbon has created, have generated the securitisation of SSR in the European Commission. The shift of discourse, however, from development to security, was not observed in DG AidCo, which essentially deals with the technical aspects (project design and development of guidelines for implementation) of SSR.[55] An EC official admitted that beyond the specific circumstances the EU faced, the shift of the EU development agenda towards increased security concerns was an inevitable phenomenon given the global conjuncture.[56]

Council General Secretariat seconded police officers admit that conceptually SSR implies tackling outside threats and is therefore oriented toward exporting the internal security agenda.[57] When one focuses on confronting domestic security reforms (and is therefore more oriented towards the interests of conflict-torn societies), the term used is 'rule of law', so it was argued.[58] It is difficult to justify the multiple interests underpinning the SSR, which result from the multiple national interests of the EU Member States. This, according to the same Council officials, may be the reason why it is so difficult to find a common definition on SSR (there is no single EU concept paper on the issue, but

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[52] Interviews with the Council General Secretariat officials, in Brussels, in October and November 2009.

[53] Interviews with the Council General Secretariat officials, in Brussels, in November 2009.

[54] Interview with EC official 2, DG Relex, in Brussels, in March 2010.

[55] Interview with EC official 2, DG AidCo, in Brussels, on 30 March 2010.

[56] Interview with EC official 3, DG AidCo, in Brussels, on 30 March 2010.

[57] Interview with official 1 and official 2, Council General Secretariat, European Union, in Brussels, on 23 and 24 November 2009 (respectively).

[58] Interview with official 1, Council General Secretariat, European Union, in Brussels, on 23 November 2009.

rather one Commission communication, one Council conclusion and a 3-page policy paper aimed at bringing them together). Nonetheless, the EU is not hiding the fact that the concept of SSR deals with internal and external security interests in parallel and considers this "normal" (that is, legitimate and justified) and therefore it considers that it is being "ethical" (that is, in their understanding as "doing good").[59]

8. Expertise and Lawfulness

The comprehensive approach to security, as professed by the EU, was strongly promoted by EC officials working on Africa (in DG Dev and DG AidCo). They pointed to the importance of examining all aspects of a project and the consequences of reform in one sector of security on all the others. In that sense, they considered the approach adopted by the EU enlargement policy – based on whether the legislation of a country meets the *acquis communautaire* – as limited and piecemeal. The argument here was that there is no legislation that is specifically on security (in general terms) and therefore the enlargement policy does not adopt a holistic approach, that is, it does not follow the SSR route. The focus is on the trees rather than the forest and the approach is too focused, which would not work in the African context, according to interlocutors working in DG AidCo, in the EC.[60] In an indirect way, the divergent approaches to doing security sector reform also demonstrates a questioning of the way reforms are chosen, rationalised, developed by DG Dev as opposed to DG Enlargement. The expertise and knowledge – not of individual officials but rather of the political project *per se* – is therefore put in question.

The SSR approach is also perceived by the EC officials as a softer but more invasive approach than the Enlargement policy, one that would allow the EU to put "its foot in the door". It is viewed as a soft and non-threatening manner of imposing the EU internal security agenda on third countries. While African countries do not enjoy the prospect of the European accession perspective, they recognise that they are in dire need of reform and funds, which gives the EU a certain leverage and power to ascertain its political agenda/ values in that continent. This is the reason why the EU can – to a certain degree – try and promote reforms to their internal security system. On the contrary, the enlargement experience is perceived as being more coercive in its approach: it is seen as having pushed for a shift in the values underpinning EU security and its transformation to a broader concept. In the European Neighbourhood Policy (ENP) countries (which do not have a European accession perspective and are not as financially dependent on international donors as Africa), it would be difficult for the EU to impose the invasive SSR agenda. Hence, the EC has opted for the use of similar strategies and instruments as those used in the Enlargement policy (value transformative) to be applied to the ENP countries.

9. Responsiveness to third countries/territories

EC officials hold that local ownership and responsiveness toward third countries underpins all Commission projects: "first, the third country decides in which aspects the Commission will intervene".[61] In addition, local ownership is institutionalised in EC relations with third countries, for example, in the case of African states in the context of the Contonou Agreement. Accordingly, the EC perceives its duty as inherently working toward the promotion of social justice (in terms of promoting human security). This is the professed philosophy in the EU development policy and one of the main reasons it tries to differentiate itself from the purely security oriented CSFP/CSDP

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[59] Interview with official 1 and official 2, Council General Secretariat, European Union, in Brussels, on 23 and 24 November 2009 (respectively).
[60] Interviews with EC official 1 and EC official 2, in Brussels, on 12 February 2010.
[61] Interview with EC official, DG AidCo, in Brussels, in March 2010.

policies, which are viewed (from a Commission perspective) as being imposed and dictated by EU Member State interests.[62]

Nonetheless, one of the constraints of the EC approach to local ownership is the fact that it engages in discussions with governments (in states where political leaders are not always representatives of the peoples' will, interests and needs) and is not an visible actor (just a donor), two factors which are detrimental to the effectiveness of the Commission's work. In that context, having national authorities on board in terms of adopting but also implementing SSR is of primordial importance. The conflicts of value are usually observed at that level: what the European Commission wants to do in a country is not always what the national authorities (local people) want.[63]

The Regional Cooperation Council (RCC), which is the successor of the Stability Pact for South Eastern Europe, claims to enhance EU ambitions for added local ownership. Having moved from being a donor framework based in Brussels to a full fledge organisation based in the Western Balkans (in Sarajevo) with only a liaison office in Brussels, it aims to sustain focused regional cooperation in South East Europe through a regionally owned and led framework that also supports European and Euro-Atlantic integration. Contrary to the Stability Pact, it has its own budget, to which the countries/members from the Western Balkans contribute, thus giving them a voice in decisions on how to spend the money (strategising, decision-making, programme design). Indeed, the annual budget of the RCC Secretariat is set at 3 million Euro: 1/3 constituting a contribution from the region; 1/3 from the European Commission; and the remaining 1/3 from other RCC members and international partners. Since this latter 1/3 also includes bilateral funding from EU member states, which consequently translates into EU contribution amounting to about 50 percent of the budget, the 'Europeans' also hold the bigger share of the decision-making power. As a result, the power of the big donors (e.g. the USA, Norway and Sweden) to impose their agenda appears reduced: these donors provide guidelines for how the money will be spent, general areas of interest (e.g. organised crime, corruption, etc), but no longer decide on specific activities and are not leaders on any particular activities (e.g. Norway was the leader of the Regional Police Forum under the Stability Pact framework).

Furthermore, the RCC markets itself as a contributor of the local voice in the debate and decision-making process regarding regional SSR projects and in the EU. Decisions on how to spend the funds are consensual and are taken during the quarterly meetings of the 29 RCC board members, which include the participating states of the Southeast European Cooperation Process (SEECP), the United Nations Interim Administration Mission in Kosovo (UNMIK) on behalf of Kosovo in accordance with United Nations Security Council Resolution 1244, the European Union (represented by the Troika, consisting of the EU Presidency), the European Commission and the Council Secretariat, as well as those donor countries, international organisations and international financial institutions actively and substantially engaged in support of regional cooperation in SEE.[64] In addition, the RCC Liaison Office in Brussels is able to channel the concerns and needs of the region's countries into the strategic planning and streamlining process that takes place in the European Commission, since the RCC Liaison Office participates in all and even co-chairs some of the Instrument for Pre-Accession (IPA) Working Groups (the EC financial instrument for the EU's enlargement policy).[65]

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[62] Interview with EC officials 1 and 2, DG Dev, in Brussels, in March 2010.
[63] Interviews with EC officials in DGs Dev and AidCo, in March-April 2010.
[64] Countries from the Western Balkans currently among the 29 RCC Board members are: Albania, Bosnia-Herzegovina, Serbia, Montenegro, Bulgaria, Croatia, Macedonia, Romania and Slovenia.
[65] Interviews with the RCC, in Brussels, in March 2010.

10. Other Values

Interestingly, coherence (purposely left out of the survey), which figures prominently in the EU discourse, was not mentioned by any but one interviewee. Parenthetically, coherence is a prominent value in the European Security Strategy, which is the EU Bible in a sense for doing EU foreign policy, as well as the EU discourse on security in general (both in Commission communications and Council conclusions). The first sentence of the document reads: "The European Union has made progress towards a coherent foreign policy and effective crisis management". And then there is the famous mantra at the end of the first paragraph: "We need to be more active, more coherent and more capable". When prodded the relevant *fonctionnaire* appeared to understand coherence as a strategy for action rather than a value.

IV. Case Study 2: Value Dilemmas in the Implementation of European Union Rule of Law Reforms in Kosovo

1. Value Considerations and Predicaments: An Analysis of the EU Rule of Law Reforms in Kosovo

The European Union launched on 9 December 2008 its biggest and financially most lavish civil intervention abroad to date, the Rule of Law Mission (EULEX) in Kosovo.[66] The mission is conceived as a joint effort with the Kosovo authorities, in line with its motto 'supporting local ownership' and with a view to develop an independent multi-ethnic judiciary, police and customs service in Kosovo adhering to European best practices. "These important aims define a shared vision of the future of Kosovo's rule of law institutions, a vision that EULEX would help to achieve. Moreover, it sets out an agenda for Kosovo's European perspective", as the EULEX webpage informs its visitors (EULEX webpage, accessed on 13/09/2010). In parallel, the European Liaison Office to Kosovo runs its own Rule of Law (RoL) programmes concentrating on capacity building in all relevant Kosovo institutions and the drafting of legislation in accordance with European standards and best practices. However, since Kosovo is not allowed to enter a formal contractual relationship with the EU or start the step-by-step process towards EU accession, the major instrument for achieving EU goals in the area of justice and home affairs in Kosovo is the CSDP rule of law mission.

In practice, the EULEX mandate is translated into specific objectives at mission level and operationalised into relevant activities that aim to lead Kosovo reforms to the declared objectives. The implementation of activities and tasks is done through Monitoring, Mentoring and Advising (MMA) Kosovo police, prosecutors, judges and customs officials (EULEX Kosovo 2009b; EULEX Kosovo 2008). Due to the current political imbroglio, as will be explained below, EULEX is essentially able to carry out the MMA functions in south Kosovo (as the area south of the Ibar river is commonly referred to). Furthermore, EULEX Kosovo has some executive powers in the broader field of RoL, in particular to investigate and prosecute serious and sensitive crimes, carry out sensitive investigations and overrule where necessary the decisions of local authorities (Grevi 2009: 357). Simultaneously, in an effort to differentiate itself from the UNMIK, EULEX is adamant that "the central aim is to assist and support the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas. The mission is not in Kosovo to govern or rule" (EULEX webpage, accessed on

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[66] The mission, with an authorised maximum strength of 1950 international police officers, judges, prosecutors and customs officials and up to 1200 local staff, is deployed throughout Kosovo and working under the general framework of UNSCR 1244. The operational budget for the first 16 months amounts to 205 million Euros, in addition to which the EU is investing 209 million Euros in Kosovo in 2008 and 2009 via the Instrument for Pre-Accession Assistance (IPA).

14/09/20109). "The key priorities of the mission", as noted explicitly by the Council, "are to address immediate concerns regarding corruption and the fight against organised crime" (Council Secretariat 2010).[67] Yet, due to the executive mandate and focus on crime fighting activities, local stakeholders and Kosovo society tend to perceive the objectives, legal mandate and activities of the EU mission as a continuation of UNMIK's failed policies.[68]

EULEX took over the rule of law functions previously led by UNMIK, which was created for an open-ended period of time by UN Security Council Resolution 1244 (1999).[69] The Kosovo Police Service (KPS) – currently at approximately 7,500 officers – was established under UNMIK and the OSCE, and the stabilising role of KFOR, following the ceasefire of June 1999 and the withdrawal of Serbian security personnel, which left a complete power vacuum behind in Kosovo (Džihić and Helmut 2009: 8; Judah 2008). The same year, the OSCE set up and ran the Kosovo Police Academy which trained local police officers. It was subsequently renamed Kosovo Centre for Public Safety Education and Development (KCPSED) and expanded its responsibilities to cover other public safety institutions (e.g. customs, corrections and emergency services). In 2006, its management was transferred to Kosovo's provisional authorities. Today, ethnic Albanians, Serbs, Bosniaks and Turks serve side by side (minorities constitute 12.2 percent), with female officers making up 16 percent of the force. All Kosovo police officers have completed the Basic Police Training and one seventh went on to attend advanced training courses and hold positions ranging from sergeant to colonel.[70] Moreover, with the active encouragement of EULEX, several Kosovo Serb police officers were recently appointed to senior positions, including that of Deputy Regional Director, in the Mitrovica region.[71] The KPS is the second most trusted institution in Kosovo (after the Kosovo Protection Corps – KPC), according to a survey conducted by the Forum for Civic Initiatives and Saferworld (2009: 10-11).[72] The same survey has also demonstrated that members of the KPS are much less likely to receive bribes than people working in other institutions[73], and that it is by far the most likely institution respondents would call if they or their family were threatened with violence (Forum for Civic Initiatives and Saferworld 2009: 16-18).[74] It may therefore seem paradoxical that while the KPS is one of the most developed security institutions in Kosovo, EULEX Police is the biggest component of the mission. Not only does it include 1,400 police officers, but it heavily weighs on the executive side: it comprises special police, crowd and riot control police, 'executive police' (including a war crimes unit, a witness protection unit and a financial unit) in parallel to 'strengthening police'.

Admittedly, fundamental problems persist in the Kosovo police: the entanglement of structures of organised crime with the political class is a major hindrance to positive future development in Kosovo. While the KPS was not meant to succeed the Kosovo Liberation Army (KLA), former KLA fighters have integrated into the police force, leading to embedded corruption and links to organised crime. The situation is further exacerbated by the low salaries of KPS officers and the dearth of equipment (Heinemann-Grüder and Grebenschikov 2006: 50, 51, 56). In fact, the international community has clearly contributed to the stabilisation of local organised crime power structures by

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[67] Interestingly, the version EULEX/08, updated July 2009 read, "The key priorities of the mission are to address immediate concerns regarding protection of minority communities, corruption and the fight against organised crime."

[68] Interviews with Kosovo officials and civil society actors in Pristina, Mitrovica, Pec, Gracanica, Strpce, Vushtrri, Decani, Prizren and Djakova, in April-May, 2010.

[69] On the legal basis for deployment of EULEX, see De Wet 2009: 92.

[70] Interviews with international and local trainers at the KCPSED, in Vushtrri, on 13 May 2010.

[71] Interview with EULEX official, in Mitrovica, in May 2010.

[72] For instance, 91.5 percent of Kosovo Albanian respondents trusted the KPS "fully" or "very much", 85.4 percent of non-Serb and non-Albanian respondents trusted the KPS "fully" or "very much", but only 5.1 percent of Kosovo Serb respondents did.

[73] This depends on the geographic area: this is not true in Mitrovica where Kosovo Serbs see the KPS as highly corrupted.

[74] 88.2 percent (in a question with multiple answers possible) said that they would call the KPS, followed by 19.3 percent who would call their relatives or family. The majority of Kosovo Serbs (58.6 percent) would also call the KPS.

allowing leading former KLA actors a major say in political and societal reconstruction (Bieber 2010). According to one official with many years of experience in Kosovo, much is known about major criminal suspects, "but the Embassies of powerful countries and foreign services interfere with the work of international and domestic police". The United States is singled out as a country hampering European law enforcement efforts (Friesendorf 2010: 123). This is how a 'nexus between politics and cross-border crime' is created and the phenomenon of so-called 'multifunction persons' who pursue political, economic and criminal interests simultaneously (Reljić 2007: 16f). Indeed, the fact that Kosovo does not have legal personality and therefore cannot sign international conventions or extradition treaties has increased the possibility of it becoming a safe haven for criminals.

At an institutional level, the judicial field has also seen some progress: the Kosovo Judicial Council (KJC) is now operational, the anti-corruption task force in the Office of the Special Prosecutor of Kosovo (SPRK) has been established, and the vetting and re-appointment process for Kosovo judges and prosecutors is complete. In practice, the EULEX Justice Component has co-located 5 legal experts/advisors in the Ministry of Justice (including the Kosovo Judicial Council and the Unit on International Legal Cooperation) to conduct 'monitoring, mentoring and advising'. The Corrections Unit assists the implementation of the necessary prison reform initiatives especially in Lipjan and in Dubrava Prison. In addition, about 160 international experts (including 35 judges and 35 prosecutors) work in the executive part of the EULEX Justice Component at the side of 100 local prosecutors. They tackle primarily financial crime, anti-corruption cases and investigations on war criminals. Specifically, the Assembly of EULEX Judges, the Prosecutor's Office, and the Office for Missing Persons and Forensics all have executive powers.

Despite the progress achieved, however, performance of the Kosovo justice system is still showing signs of weakness: the KJC is still not able to play a pivotal role in ensuring the independence and impartiality of the Kosovo judicial system. Political interference with the work of the justice system, both in criminal and civil proceedings, has often resulted in practical problems (such as the pre-emptive abstention of local judges and prosecutors to deal with sensitive cases). Indeed, local judges and prosecutors are also strongly influenced by the volatile political and security context and tend to leave the judgement of the most controversial cases to the EULEX personnel.[75] Furthermore, a massive number of cases is pending (approximately 22,000), particularly those of a civil nature.[76] The Office of Property Claims Commission, which handles disputed property issues, make up about 90 percent of the cases the EULEX Justice Component deals with, in a complex situation where statistics on the issue are disputed.[77] The Kosovo Criminal Justice System (CJS) capacity to move forward with the reform agenda is very fragile and inconsistent. The lack of progress in establishing the basic mechanisms of cooperation and coordination between prosecutors and Kosovo Police, as well as between prosecution offices and courts, remains a factor of concern. Moreover, prosecution efforts are undermined by poor management and lack of support staff. The practice monitored so far demonstrates that further improvement is needed in the treatment of victims of domestic violence, in cases related to human trafficking and in gender-related cases (EULEX Kosovo 2010).

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[75] The most recent example is the trial against a political leader of Kosovo's political party Vetëvendosje!, Albin Kurti, for the episodes of violence that erupted in the course of a protest in February 2010. The defence lawyers, including the Head of the Kosovo Bar Association, had repeatedly refused to act on behalf of Kurti, as they considered the prosecution being politically motivated. EULEX had also experienced serious difficulties in finding a local representative available to sit in the trial with two international judges and securing the collaboration of the local police to bring to court the political leader.
[76] Interview with EULEX prosecutor, on 29 April 2010.
[77] Belgrade has its own statistics and indeed took all official documents when the Serbian forces withdrew from Kosovo in 1999. These statistics are different from those held by the Kosovo Property Agency, an independent body established on 4 March 2006 under UNMIK Regulation 2006/10 mandated to resolve claims resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999 in respect of private real estate, including agricultural and commercial property. Interview with EULEX Justice Component official 2, in Pristina, on 11 May 2010.

The Kosovo customs administration has been in the driver's seat of the reform process since 2008 when the entire system (minus Gates 1 and 31 in north Kosovo) was transferred to the Kosovo authorities. Some progress has been recorded since then in the drafting and streamlining of legislation: the Administrative Instruction with implementing provisions of the Customs and Excise Code of Kosovo has entered into force. The Kosovo Customs drafted a new Strategic Operational Framework (SOF) for the period 2010-2012, which is however considered not focused enough at strategic level[78], and prepared the Action Plan 2010. With the support of the EC funded "EU Support to Customs and Taxation Administrations" programme (EU-CTA), a training needs assessment in Kosovo Customs was also completed, including more specialised law enforcement training. No progress has been made in the functioning of the Independent Review Board and reduction of the backlog in customs appeals, notwithstanding reiterated commitments of the Kosovo institutions to remove the obstacles for a proper functioning appeals body. Furthermore, limited progress has been made in internal communication (EULEX Kosovo 2010). Interestingly, the *EULEX Programme Report* (2010) makes no mention of progress or lack of it in Serb populated areas north of the Ibar river, where both the EULEX Justice and Custom Components face substantial challenges (as will be explained later) since in reality they can only use their executive mandate; the EULEX Police Component must face increasing civil violence.

EULEX customs presence in north Kosovo has been building up progressively since February 2010 and executive control became effective at Gates 1 and 31 in north Kosovo in March 2010. While a 24/7 police and customs presence has been assured, the functions it carries out are limited. The EULEX Customs Component officials deployed at the two Gates are responsible for collecting data, i.e. checking and scanning drivers' documents and creating records. However, no searches are conducted (though the documents assembled should describe the goods being transported) and no taxes are paid. The payment of taxes is the most controversial issue as both Gates are an entry point to south Serbia, as these Gates are considered by the Kosovo authorities as the entry point into Kosovo. This is how the EULEX mission in north Kosovo has become a symbol of Kosovo sovereignty in the eyes of Kosovo Serbs. In fact, while EULEX is deployed under the UNSCR 1244 and is therefore legally bound to a 'neutral status', it has defined the customs area of Kosovo as a 'single customs territory', thus indirectly accepting the frontiers of the self-proclaimed state.

The ability of EULEX to implement its ambitious mandate also largely depends on the political circumstances surrounding its deployment. The mission has defined its tasks (emanating from its mandate) in a technical manner so as to avoid being caught up in the politics of non-recognition: for example, it accepts to be seconded in the Kosovo institutions and it assists with the implementation of the Kosovo Security Policy rather than National Security Policy (thus creating a new non-political vocabulary). The mission, however, has been held back by the complex political situation north of the Ibar river. Despite the reintegration of Serb Kosovo police into the KPS in late June 2009 and their monitoring, mentoring and advising by EULEX, north Kosovo is considered 'a lawless area'.[79] There is a legal and political vacuum in north Mitrovica and the courts do not function. The police are reluctant to even issue parking tickets in fear that this will help fund the Kosovo institutions in Pristina.[80] In reality, however, the so-called technical interpretation of the EULEX mandate to accommodate the controversial basis of its deployment provides a facade to the EU's undeclared and inexplicit plan, that of inevitably being in a situation of implementing the Athisaari plan.[81] It is within this complex and unclear political context challenged on an everyday basis by a volatile security

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[78] Interview with EULEX Customs Component official, in Pristina, on 20 May 2010.
[79] Kosovo Police station commanders will, however, continue to report through EULEX for the time being. Interview with EULEX official, in north Mitrovica, in May 2010.
[80] Interview with EULEX official, in May 2010.
[81] International donors (including some EULEX officials) admit to the work of EULEX *inevitably* moving forward the Athisaari agenda since the mission is committed to having concrete output. Interviews conducted in Kosovo, in April and May 2010.

environment and locally perceived uncertainties about Kosovo's future that one must consider the ethical dilemmas the EU, and particularly EULEX Kosovo as the main actor in the rule of law reforms in Kosovo, faces. The following analysis of the ethical dilemmas confronting the implementation of European RoL reforms in Kosovo, as already mentioned in the methodology part of this report, is organised according to the values enumerated in the survey handed out to respondents.[82]

2. Accountability

Accountability, defined in the survey as an "act willingly to justify and explain actions to the relevant stakeholders", is measured both internally and externally. The EU has its well known internal mechanisms to ensure that it is accountable to the EU institutions (both the Commission and the Council Secretariat), the EU Council (and by extension the EU member states) and the European Parliament.[83] In line with these prerogatives, EULEX has set up a solid programmatic approach, an evaluation of progress every six-months and the drafting of progress reports sent to the General Council Secretariat.[84] It is beyond the scope of this report to analyse issues of internal accountability of EU rule of law reforms. The analysis is based on the way interlocutors in Kosovo have addressed the issue of accountability, which it is worth noting have focused on the external accountability of the EULEX. Accordingly, EULEX accountability was associated to: the implications of the legal basis of its deployment; *who* EULEX is accountable to; and how Kosovars perceive EULEX accountability.

EULEX inherited to a certain degree the set up that was left behind by UNMIK (and with it the legacy and reputation left behind) (cf. Heinemann-Grüder and Grebenschikov 2006). This framework includes the provision of transferring the primary responsibility of the security apparatus and other services to the Kosovo institutions, which it somehow must do without recognising the Kosovo institutions which it supports, 'monitors, mentors and advises' daily and in which it is co-located. This paradox is one that leads international donors working in Kosovo (including EULEX officials) and local stakeholders interviewed to question the legal basis of the mandate of EULEX. The confusion created over whether or not EULEX supports (even if indirectly) Kosovo independence, led a local interlocutor to conclude that EULEX's mandate whose stated aim is to "develop an independent multi-ethnic judiciary, police and customs service in Kosovo" refers to creating institutions independent from the Republic of Serbia rather than what is actually meant: independence of the judiciary, police and customs from each other (through a separate oversight and clear accountability mechanisms) and freedom of all rule of law components from political interference.

In fact, closer scrutiny of the command structure of EULEX reveals the complexity and uniqueness of the accountability mechanisms of the mission. While CSDP missions have a chain of command that exclusively involves EU bodies and whereby their overall authority resides in the EU High Representative, EULEX functions are, since July 2008, under the overall authority of the United Nations and thus the mission provides the Secretary General with all necessary reports. In practice, regular reporting to the Security Council and/or the Secretary General has become a standard feature of all delegated mandates of a civil or military nature and symbolises the acceptance of the Security Council as the authorising source of the mandate.[85] Essentially, EULEX must accept that it is in co-existence with UNMIK (as opposed to being a substitute for it) and must execute its RoL

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[82] Please to the survey (available in English and French) in the Appendices (Section VIII).

[83] See, for example, Bono 2006b, 2004.

[84] EULEX is quite transparent about its evaluation process and its reports are available on its webpage: www.eulex-kosovo.eu

[85] UN Security Council Resolution 1244, para. 20, requested that the Secretary General report regularly to the Council on the implementation of the civil and military presences authorised by this resolution.

mandate in a manner that does not conflict with the oversight role that the Special Representative retains in Kosovo (De Wet 2009: 91).

Simultaneously, EULEX was deployed in agreement with and on the invitation of the Kosovo institutions. In that sense, EULEX should be also accountable to the local authorities which it does not recognise. Yet, as a EULEX Justice Component official admitted, while EULEX does well on internal accountability – the different components are informed of each other's projects and initiatives, external accountability is low. This situation is partially the fault of EULEX, but it also depends on the recipient and to what extent it wishes to cooperate with the mission.[86] It is not surprising that those in the opposite camp (organisations that recognise Kosovo independence) perceive EULEX accountability differently. "EULEX is neither accountable to the Kosovo institutions nor to international donors", an ICO official maintained. In fact, if one looks at the legal base of the mission, despite of the existence of the Human Rights Panel, it cannot be sued by local actors. Indeed, if Kosovo was a recognised state it would able to bring cases against the International Court of Justice (ICJ) and the European Court of Human Rights.[87]

While on the surface it may seem that the European Union does not have a plan for Kosovo as it muddles through the complications of holding onto the facade of the 'neutral status', it is actually indirectly assisting the implementation of the Athisaari plan. Closer scrutiny of the implementation of its mandate demonstrates that the devil is indeed in the details. On the one hand, at Brussels level, EU Member States and the EU institutions are careful to adhere to the principles of the UNSC Resolution 1244: they adopt a discourse along the lines of 'the 22 plus 5' when referring to Kosovo and are very careful about how they talk about the role of the EU in Kosovo.[88] On the other hand, at Pristina level, the EULEX and ECLO are more compliant to working with the Kosovo institutions, which is unavoidable if they are to have results. EU officials in Kosovo spoke of the pressure from Brussels (to the actors/institutions to which they must be accountable) to have results on the ground and for their activities to be implemented in a timely manner, while at the same time they noted that Brussels does not create the political circumstances for them to be able to implement the given mandate. Thus, if one looks at the programmatic approach issued by EULEX, one notes that it makes reference to the "Republic of Kosovo" (EULEX Kosovo not dated: 1, 3), a document which incidentally has been removed from EULEX's webpage.[89] It mentions, for example, "[w]ith the exception of Border Crossing Points (BCPs) 1 and 31, KP Border has full command and control of the Republic of Kosovo's border" (*Ibid.*: 1). In addition, the mission has agreed to be co-located in institutions such as the Special Prosecutor for the Republic of Kosovo (recently renamed from its original 'Office of Special Prosecutor of Kosovo', the name under which it was established). Beyond reasons of accountability, this scenario provides evidence of innovativeness and an endeavour for effectiveness, as will be elaborated further on.

According to a EULEX official, "accountability is of fundamental importance to the mission" since peace support operations (including many EU missions) are often accused of lacking accountability. Consequently, "EULEX ingrained accountability in the mission through the Human Rights Review Panel (HRRP)".[90] The Panel was established within EULEX to review complaints from any person claiming to be the victim of a human rights violation by the mission in the conduct of its executive

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[86] Interview with EULEX Justice Component official 2, in Pristina, in May 2010.

[87] Interview with ICO official 2, in Pristina, on 26 May 2010.

[88] Interviews with EU officials in Brussels, in February and March 2010.

[89] The document is, however, available on the website of the Centro Studi sul Federalismo at http://www.csfederalismo.it/images/stories/PESD/eulex-kosovo/eulex_programme-strategy.pdf (accessed on 13 September 2010). It is also notable that the document does not have a reference number, a cover page and is not dated, which suggests that it has not received a green light from the EU Council.

[90] Interview with a EULEX official, in Pristina, on 20 May 2010.

mandate. The HRRP, acts "as an independent accountability mechanism for alleged violations of human rights", but does not constitute a judicial or disciplinary body. The mechanism will solely determine whether a violation of human rights occurred or not and formulate recommendations for remedial action. As it became operational only last May, it is too soon to draw conclusion as to its effectiveness, but what one could observe is that the Panel is composed of three international members with a supporting secretariat, and does not include any Kosovar members. Thus, locals do not play a role in the accountability mechanism. Moreover, the HRRP submits its findings to the Head of Mission and, where necessary, makes non-binding recommendations for remedial actions. The non-binding decision reminds an ICJ at micro-level, whereby a legal advice could potentially have political ramifications.

The creation of this Panel is perhaps an attempt by EULEX to remedy local complains by Kosovo NGOs and civil society actors that feel that EULEX is not accountable enough to local stakeholders. Specifically, the NGO FOL in Pristina had recommended that EULEX be accountable to the Kosovo Assembly by reporting to it; however, there is no such protocol – again one of the maledictions of the non-recognition policy. One of the biggest concerns of Kosovo civil society was that EULEX would follow the UNMIK model, whereby consultants would be deployed to conduct the work (using executive powers) and not offer any training, thus not creating any local capacity and expertise to take over the tasks carried out by outside actors, but rather creating a knowledge vacuum. Indeed, EULEX is most known for and most present through its executive mandate. The wider Kosovo population is "not aware of what EULEX has been doing" for the last two years and even less so about the work of EU Preparatory Team (EUPT).[91]

Moreover, Kosovo Albanians see EULEX as a mere peacekeeper since it does not use its executive powers to arrest anyone working in the 'parallel structures', especially the informal Serbian security apparatus in north Kosovo – the MUP (Serbian security forces falling under the Serbian Ministry of Interior that patrol the streets in civilian clothes), the rapid reaction forces (former Serbian military forces) or the 'bridge watchers' that monitor passersby on the main bridge over the Ibar river. The sensitive issue of (non-)recognition of Kosovo, however, necessitates that the mission tread a thin line in an effort to accommodate Serbian concerns. Among other, EULEX had to agree with Belgrade on the modalities of its work north of the Ibar river and the applicable laws: the mission signed a Police Protocol with Belgrade which allowed the deployment of EULEX police in the north Mitrovica region. EULEX access to Serbian-majority regions is limited and it is unable to deploy judges without Belgrade's consent. Simultaneously, Kosovo society feels dependent on EULEX since it does not trust its own leaders to tackle the judicial reform and counter organised crime. Rather, the impression is that those in power have political incentives to keep corruption alive. Since Kosovo has 'conditional independence', Kosovars feel that it is international donors' job to help to get rid of the warlords involved in organised crime. It is well understood among Kosovo civil society but also international donors that local prosecutors would be too scared to take ownership of the sensitive dossiers against those suspected of organised crime.[92]

3. Dedication

Overall, both international actors in Kosovo (including EULEX) and local stakeholders felt that the EU officials (at an individual level) were committed to "acting with diligence, enthusiasm and perseverance", as noted in the survey given out to respondents. It is also considered an important factor for convincing the Kosovo authorities to engage with the reform process.[93] Having said that, as

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[91] Interview with FOL Representative, in Pristina, on 20 May 2010.
[92] Interview with FOL Representative, in Pristina, on 20 May 2010.
[93] Interview with EULEX Police Component, in Pristina, on 27 May 2010.

it is common with every working environment, EULEX staff were seen as being are very enthusiastic about and dedicated to the work at the beginning of their contract, but with time and as they become increasingly aware of the financial and political constraints attached to their work, "they lose the passion for it".[94]

More nuanced answers made a distinction among international actors and EULEX components: "dedication fluctuates and depends on the person".[95] Some EULEX officials noted that the level of dedication of EULEX police officers was lower than in other components. In particular, EULEX police officers, suffer from the legacy inherited from UNMIK – what was referred to as 'an UNMIK mentality' referring to a bureaucratic way of working, since a number of them used to work for that mission.[96] In addition, the fact that the mission closes at 2 pm on Fridays (while other international offices and the Kosovo institutions where EULEX officials are co-located work until later in the day) is badly seen by relevant stakeholders and negatively affects the mission's reputation.

Dedication is therefore affected by the possibility to be effective in one's job. The US Embassy in Pristina is considered "the boss" by EULEX officials, the Kosovo authorities and civil society and other international donors (Kosovar Stability Initiative 2009). Some EULEX officials interviewed felt that the US Embassy has high and strategic interests: Kosovo is a "success story" for the United States and the fact that the majority of the Kosovo population is Muslim is of strategic importance to them. The fact that during each visit of Kosovo officials to foreign countries, their first meeting is with the US Ambassador is indicative of the prescriptive role that the United States has adopted in Kosovo and the influence it has.[97] EU and US advisers often squabble over the merits of their respective legal systems and the Kosovo institutions seem to be caught between the EU players on one side and the US assistance on the other. As a result, Kosovo is implementing two incompatible border control systems, one favoured by Washington, the other funded by Brussels (International Crisis Group 2010).

The choice of computer programme for border control that is in line with both EU and US data protection laws has proven challenging. In an effort to try and accommodate both parties, the Kosovo institutions – split between their loyalty to the United States which is perceived as a 'saviour of Kosovo' (thus honouring their past) and the European Union which they see as an opportunity for a better future – adopted the Maltese system of border controls. EC officials held that the US model does not adequately protect the privacy of individuals' data – it does not fulfil Schengen requirements and would allow the US and others to too much information – while US experts argued that some EU member states, such as Malta, use it in conjunction with other tools.[98] Although the Kosovo border police are enthusiastic about the US American system, the EU tends to "resent what they see as excessive American influence. They claim that the U.S. Agency for International Development (USAID) drafts new legislation about which the Kosovo government only later consults with the EC on its compatibility with the *acquis communautaire*" (International Crisis Group 2010: 2). The way the Police Inspectorate (the police unit handling serious disciplinary cases and all criminal offenses) will function is also an issue on which the US Americans and the EU have been at odds. An international respondent maintained that the US and EU have different legal systems – this is an over-simplification given that legal systems among EU member states differ – and a different understanding of justice. Much of the legal framework in Kosovo was drafted by ICITPAP (the

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[94] Interview with EULEX Justice Component official 2, in Pristina, on 16 May 2010.
[95] Interview with ICO official 2, in Pristina, on 26 May 2010.
[96] Interview with EULEX security official, in Pristina, on 22 May 2010.
[97] Interview with EULEX official, in Pristina, 20 May 2010.
[98] Interview with senior Kosovo official, in Pristina, on 19 May 2010.

International Criminal Training Assistance Programme of the US Department of Justice) and does not match EU standards or the *acquis communautaire*.[99]

4. Effectiveness

Similar to other conflict-torn environments, the EU finds itself amidst numerous other peace support operations and donors in line with the professed quest for effectiveness, that is, the act to achieve the desired results (as noted in the author's survey). While EULEX is the biggest and most visible and principal mission currently in Kosovo working on RoL reform, it must cooperate with other relevant international initiatives. Each donor has delimited a niche in the complex arrangement on rule of law reforms. The OSCE, which was the principal actor in police reform until the deployment of EULEX, has found itself a niche in the monitoring of human rights in the six regional police stations (*see map of regions in Kosovo*). The staff is not police officers, but rather civilian human rights experts who are deployed in the regional police offices and in Pristina to conduct human rights reporting and provide the Chief of Police with practical recommendations.[100] While EULEX follows specific cases of human rights abuse by the Kosovo police, the OSCE focuses on patterns of challenges on human rights violations in all parts of Kosovo and aims to bring about institutional change. Furthermore, EULEX has deployed police and investigators, has executive power and has no budget for activities.[101]UNDP experts are twinned in the Ministry of Internal Affairs, the Office of the Prime Minister and the Ministry of Justice and work on supporting the Kosovo institutions in drafting legislation and strategies (thus, similar work to what ECLO and EULEX are engaged in) and develop community policing. Furthermore, ECLO consults and cooperates with EULEX for the drafting of the EC progress report.

There is officially a well-organised and agreed upon division of labour between international actors/donors deployed in Kosovo. According to the agreed upon work plan, the EUSR which is a 'double-hatted' ICR ensures the coherence of international action. This was the underlying logic of bringing together these two offices. On paper, the EUSR is mandated to provide guidance to EULEX and advise ECLO. Thus, for example, the EUSR office is responsible for ensuring that the laws drafted by the ICO are sent to ECLO and meet 'European standards and best practices'. However, reality is more complex and less clear cut. The absence of solid relationships among relevant actors not only affects effectiveness but has serious negative repercussions on accountability, which as explained above, is already challenged.[102] The 'double-hatting' of the EUSR is negatively perceived by local stakeholders: the 'double-hatting' of the EUSR as also International Civilian Representative (ICR) has created the wrong expectations for both Kosovo Serbs and Kosovo Albanians, who tend to associate with the hat that is most convenient to their group interests. Consequently, Kosovo Albanians tend to associate him with his ICR office and view him in relation to the Athisaari Plan and as therefore recognising the sovereignty of Kosovo. Kosovo Serbs and Belgrade deal with the EUSR, who is legally bound to the 'neutral status' (that is, the Serbian position on the Kosovo issue). EU Member states – most particularly those that do not recognise Kosovo – are unhappy with the use of the 'double-hatting' mechanism and expect the EUSR/ICR to specify under which hat he expresses himself when he speaks to the media.[103]

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[99] Interview with senior international official, in Pristina, on 26 May 2010.
[100] Interview with OSCE official, in Pristina, on 20 May 2010.
[101] Interview with OSCE official, in Pristina, on 20 May 2010.
[102] Interview with ICO official 2, in Pristina, on 26 May 2010.
[103] Interview with a EU Member State Representation, in Brussels, in March 2010.

Personal relations and personalities are important factors for building trust between officials, institutions and establishing a good working relationship among donors.[104] Usually if the relations between the heads of missions are fruitful, then the spirit of cooperation trickles down to the lower levels.[105] This was indeed the logic behind 'double-hatting' the EUSR with the ICR. However, due to the non-recognition policy that the EU upholds, the potential merits of this mechanism have been compromised. In fact, in order for EULEX to be able to implement its mandate and be able to deliver on outcomes, it has had to distance itself from the office of the EUSR. As is explained in the section on innovativeness, the mission has had to work around the status issue to be able to implement its initiatives, projects and programmes. Associating itself with the office that, at the highest political level, personifies non-recognition of Kosovo would have been detrimental to the work of the mission.[106]

The 'Working Group on Rule of Law', convened by the Ministry of European Integration and bringing together all actors working on rule of law reform initiatives, aims to inform "all relevant partners" of ongoing activities, coordinate efforts and streamline the international strategy on these issues.[107] In addition, every month the 'International Human Rights Contact Group' meets to coordinate human rights activities and strategies, issues directly related to rule of law reforms. Members of this group include the OSCE, the UNHCR, ECLO, EULEX and the Council of Europe; thus, it only includes donor representatives and not any of the beneficiaries.[108] It is within these institutional and political parameters that the EU aspires to act effectively and have concrete results in the reform process in Kosovo.

A EULEX Customs Component official claimed that smuggling from Serbia has decreased by 70% and that the checking of documents at the Gates 1 and 31 has been effective. Goods are smuggled into Kosovo for the needs of the Serb communities living north and south of the Ibar river. The objective here is to avoid trade with Kosovo Albanians and also to bring down the income incurred by the Kosovo authorities and Kosovo Albanians. The decrease of smuggling is verified by comparing the information gathered from documents at the border (Gates) with the goods declared at the customs office in south Mitrovica. Last March, the EULEX Customs Component in cooperation with EULEX police conducted 'intensified controls' as a way to monitor the security situation (and organised crime) in north Kosovo. In essence, the EULEX police randomly followed the shipment leaving the Gates (after having been checked by the EULEX custom officers) to monitor whether or not they registered the shipment or if they diverted from their route. While the EULEX police did not intervene to ensure that the shipment was registered, this routine allowed the mission to be aware of the security situation in this very volatile and potentially unstable area and give them an insight into the routes of organised crime.[109] Additionally, the EULEX Customs Component teams are 'mobile teams' in that they are not fixed to one office in south Kosovo. This set up renders the Component flexible allowing it to work with the anti-organised crime teams of the Kosovo border police.

Unresolved issues hamper however the work and executive mandate of EULEX Customs Component. The most important factor compromising the effectiveness of the Customs Component is the absence of a legal framework under which the revenue collection could be done. On the one hand, Belgrade does not accept Kosovo certification (the stamp of the 'Republic of Kosovo' on the documents). On the other, the Kosovo institutions do not accept for the revenue to be collected

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[104] Interview with ICO official 2, in Pristina, on 26 May 2010.

[105] Interview with EULEX Customs Component, in Pristina, on 10 May 2010.

[106] Interviews with numerous international donors based in Kosovo, in April-May 2010.

[107] Interview with ECLO rule of law programmes official, in Pristina, in May 2010.

[108] Interview with OSCE official, in Pristina, on 20 May 2010.

[109] In order to intervene, an agreement with Serbia was needed, such as the Police Protocol signed between Serbia and the Police Component of EULEX.

under UNMIK legislation. A further complication is that it is not clear *on behalf of whom* the money would be collected and *where* the funds would go? Would the revenue benefit Belgrade or the Kosovo institutions? EULEX and other international donors try to look for creative ways of redistributing funds at the community level – thus, the value of effectiveness is correlated to the value of innovativeness. In fact, it is fair to say that when international donors think outside the box and act innovatively to decouple political complications from operational realities, then their initiatives can see fruitful results. Furthermore, the effectiveness of the EULEX mission is hindered by the micro-management of the Civilian Planning and Conduct Capability (CPCC) in Brussels: the Unit blames the mission for not delivering on the objectives set in its mandate, but fails to acknowledge the political complications blocking progress on the ground, which are created by the Brussels institutions and the EU member states.[110] The frustration expressed here was frequent among EULEX officials dealing with the everyday implementation of the EULEX mandate.

Ultimately, the job of coordinating rule of law reform rests in the hands of the Kosovo institutions, a logic that international donors deployed to conflict- and post-conflict environments often call on. They claim that there is a need for "politics from above" whereby Kosovo institutions – be it the Ministry of Internal Affairs of the Ministry of European Integration – would tell donors in which areas to invest, move budgets around to fit local realities better and bring relevant actors together to coordinate their activities. This was also a frequent complaint in the early years following the signature of the Ohrid Framework Agreement in Macedonia. However, Macedonia, unlike Kosovo, is recognised country with a sovereign government (Ioannides 2007). Kosovo, on the other hand, is asked to assume responsibility for activities it cannot have control over given EULEX's and other donors' executive mandates.

Furthermore, the absence of coordination among EU actors is not a new phenomenon in Kosovo. The Council of the EU established a European Union Planning Team (EUPT) – the predecessor of EULEX – in April 2006 (until June 2008) order to prepare for a possible future CSDP Mission in Kosovo. Another preparatory mission led by Solana's personal representative was set up in parallel, in September 2006, to prepare a future EU-led International Civilian Mission (ICM), a political entity created to oversee the implementation of the post-status arrangement and headed by an International Civilian Representative (ICR), double-hatter as EU Special Representative (EUSR). On the ground, the two preparatory missions worked independently with little coordination. As the status process continued to drag on without any agreement in sight, the mandates of both preparatory missions were extended by the Council several times (Koeth 2010: 232-233).

EU perceptions of ineffectiveness by local stakeholders are also linked to low perceptions of credibility (thus accountability). In fact, even before EULEX deployed to Kosovo, it had a bad reputation and was associated to UNMIK. The deployment of EULEX was based on a six-point compromise plan proposed by the UN, which turned upside down the logic of EULEX. Whereas the previous assumption was that EULEX would implement Ahtisaari's Comprehensive Status Settlement and thus lead Kosovo through a transitional period of supervised independence to full sovereignty, the line ultimately endorsed by the Council was that EULEX would neither refer to the Comprehensive Status Settlement nor to Kosovo's constitution.[111] Thus, EULEX was subordinated to the legal framework of 1244 and put under the guidance of the EUSR, thus creating an odd

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[110] Interview with EULEX official, in Pristina, on 20 May 2010.
[111] Through this rather abrupt full turn, which was done to appease Belgrade the Kosovo Serbs, EULEX managed to receive the green light from Belgrade for their deployment on the whole of Kosovo, including areas where the majority of the population are Serbs.

relationship between the two institutions (EULEX and the EUSR), as already explained. Simultaneously, EULEX was fully legitimised by it being mentioned in the Kosovo Constitution.[112]

The conflictual and competitive relationship between the United States and EULEX has held up progress on key legislative changes in the field of police reform (e.g. anti-money laundering and data protection). The locals, as is usually the case in conflict-torn and post-conflict environments, "play the different donors against each other – in this case, the EU and the USA as well as EULEX against ECLO – in an effort to get the most from every donor".[113] Indeed, most of the problems of coordination between donors are due to competition over which EU member state's legislation will prevail. The broad perception among donors, including EULEX officials, is that the US holds key positions for influence and access to information. Some support conspiracy oriented theories according to which the US would like for an independent Kosovo to integrate into the EU so that it can act as a US satellite and provide the United States government with much needed intelligence.[114] Such statements are indicative of the absence of trust among international actors which consequently the potential source of conflict and competitiveness among donors.[115] Moreover, a divergence of opinions between EU member states and the EU institutions in Brussels centring on issues of Integrated Border Management, with members disagreeing on the importance that this issue should be given, are also detrimental to decisions on the necessary RoL reforms in Kosovo to be taken quickly enough and therefore negatively impacting on the effectiveness of reforms on the ground.[116]

Problems of coordination also exist between locals and internationals, which hamper effectiveness of action. It is notable that in the office of the Chief of police, ICITAP has seconded a US American expert, EULEX is already co-located in the same unit, and the EC would like to deploy a Twinning project (which would imply deploying a third expert in this office). Beyond problems of efficiency since essential resources are wasted, this arrangement would cause much confusion to the Police Chief since he would be receiving unaligned expert advice from three different actors and would therefore slow the reform process.[117] While one of the primary objectives of EULEX – the first EU Rule of Law mission to deploy – was to effectively link the reforms in the domains of police, justice, customs and correctional facilities, the link and cooperation between the different components was sometimes challenging. For instance, the KPS and EULEX police do not work well with the EULEX prosecutors. This is partly due to the fact that there are not enough prosecutors deployed – the EU is having a difficult time finding available prosecutors willing to go work in Kosovo, recruitment problems being a common currency in CSDP missions – and therefore are overwhelmed by work and short for time.

Numerous problems inside the EULEX mission challenge its effectiveness. First, the mission mandate is short-term and thus the Kosovo project is also seen as such, as a one-to-one-year endeavour. This set up hurts the sustainability of reforms. In addition, EULEX officials "seem not to talk to each other within the mission".[118] Indeed, as EULEX officials admit, the mission is internally fragmented along nationality lines, which means that EULEX officials of the same nationality (who tend to socialise together) feel an inherent link to each other and trust, which enhances cooperation among them. It

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[112] It was neither in the interest of Kosovo authorities nor of EULEX to point out that this same Constitution was *de factor* disregarded by EULEX since it is incompatible with UNSCR 1244.
[113] Interview with EULEX official, in Pristina, on 20 May 2010.
[114] Interview with a EULEX official, in Pristina, in May 2010.
[115] This suspicion also became clear to the author in the way KFOR in north Mitrovica deals with EULEX when both missions are in the streets patrolling the sensitive areas in the region. Specifically, the KFOR patrolling car was trying to ensure that it was not followed by the EULEX police.
[116] Interview with senior EULEX official, in Pristina, in April 2010.
[117] Interview with UNDP official, in Pristina, in May 2010.
[118] Interview with NGO Representative, in Pristina, on 20 May 2010.

does have, however, negative consequences for those members of staff who belong to a certain Unit but do not belong to the majority nationality group. In practice it means that when the Head of Mission came into office he brought his own advisors (from his old job and his own nationality). As a result, the advisors hired by the mission to offer support to his office were marginalised, a situation which is also reproduced at the level of and inside individual EULEX Components. These internal clans also come into play when sharing intelligence (be it information on the workings of the mission or more sensitive intelligence on the Kosovo security situation).[119] In addition, the relationship between the EULEX prosecutors and police officers is also problematic: the police personnel have shown some reticence to accepting the leadership of prosecutors in investigations. This is partly due to the differences of status and roles of Law Enforcement Agencies in the various EU member states: they often enjoy a high degree of autonomy in conducting the investigations and report to the prosecutors only at the end of the investigation.[120]

Perception of effectiveness from a local perspective tends to swing drastically. EULEX, burdened by the legacy of UNMIK, was viewed the mission negatively by Kosovars until last May when EULEX used its executive power to raid the office and home of the Minister of Transport. This case managed: first, to differentiate EULEX from UNMIK, which never used its executive powers to go after high level political personalities suspected of organised crime and corruption; and second, demonstrated to the Kosovo people that EULEX will uphold the law and that no one – not even officials in key positions – are above the law.[121] The fluctuating perception of EULEX effectiveness and the mission's inability to deliver (so far) on this latter statement has meant that its popularity is again on the decrease. The mission has raised expectations very high and now needs to deliver with a thorough investigation and the arrest of the Minister. However, the absence of coordination with other international actors – in this case, most notably the United States who seems to be protecting Minister Limaj – has meant that it may not be possible to follow through.[122]

5. Efficiency

Overall, efficiency in the implementation of programmes and initiatives – defined as the act to achieve results with minimal means – was not rated as a priority issue among EU officials working in Kosovo. In general terms, there was a sense that "if the choice is between doing something that may not be efficient and doing nothing, then it is better to at least try and change things". Secondly, much frustration was expressed at the fact that EULEX officials would like to be efficient, but in practice they cannot.[123] A EULEX official explained that in order to be efficient, one must adjust to the local environment and establish rules and regulations, which is time consuming and very difficult to accomplish when EULEX police officers are deployed on short-term one year contracts.[124]

More than 2 billion Euro of EU funds have been absorbed by Kosovo and up to seven EU bodies have been working more or less independently from each other on the ground (Koeth 2010: 227). The multiplicity of donors and overlapping mandates is the cause for much inefficiency. Efficiency and effectiveness were intrinsically linked by respondents, yet the emphasis was put on the need for effectiveness rather than efficiency, since international donors have sufficient funds for activities and programmes. To mention one example, the case of the EULEX Customs Component, it cooperates with the Financial Unit of the International Civilian Office and with the EUSR, whom the Component

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[119] Interview with EULEX security personnel, in Pristina, on 13 May 2010.
[120] Interview with EULEX prosecutor, in May 2010.
[121] Interview with EULEX Justice Component official 2, in Pristina, on 11 May 2010.
[122] Discussions with local NGO workers, Kosovo and international officials, in Pristina, in May 2010.
[123] Interviews with EULEX officials, in Pristina, in May 2010.
[124] Interview with EULEX Police Component, in Pristina, on 27 May 2010.

adviser on customs issues. The EUSR is then essentially called upon to use the information provided to negotiate political complexities with Belgrade. The EULEX Customs Component also works with KFOR (especially in north Kosovo), where KFOR constitutes a security back up [it is third responder, while EULEX is second responder], are regularly informed of the Components' activities. Naturally, the *de facto* denial of the Kosovo constitution left a sour taste to Kosovo Albanians, who had looked until then to the EULEX deployment as an affirmation of their independence. Thus, once again the status question slows down the reform process, which consequently means that much needed funds are wasted.

6. Expertise

Recruiting "the right people for the job" was quoted as a significant factor both at individual level and at mission level in EULEX. EU officials interviewed stressed that working with officials who "act with competence, skill and knowledge" (as the notion of expertise was defined in the author's survey) facilitated effectiveness, efficiency, prompted innovativeness, responsiveness to Kosovo needs and realities and motivated them to be dedicated.

EULEX personnel were quick to note that the absence of expertise and on hands experience of the EUPT staff was one of the reasons for EULEX having received an unworkable mandate. Rather, EUPT officials "were diplomats with no field experience".[125] In fact, officials in the EULEX Justice Component found themselves having to write up their own work programme since the one that was given to them was unworkable. It must be noted, however, that a number of the personnel from the given component are in Kosovo for the first time and are not familiar with the local context.[126] This situation leads to misunderstandings between 'locals' and 'internationals'

Simultaneously, while expertise is high on the priority list of EULEX, diverse constraints come to compromise such ambitions. Beyond the problems of recruiting judges and prosecutors, which are a rare commodity that EU member states do not want to part with, EULEX prefers to recruit seconded personnel for which the EU member state (rather than the Council of the EU) bears the costs of employment. Yet, the prosecutors and judges who are willing to deploy to Kosovo are usually motivated by financial incentives and thus come primarily from 'poorer' EU member states (e.g. Romania and Bulgaria) and are contracted (rather than seconded). Thus, personnel are expensive for EULEX and are not necessarily the most qualified.[127] Moreover, these categories of personnel are generally reluctant to serve in international missions, especially for long periods of time: the lack of a wide and targeted publicity on the opportunities available in CSDP missions and adequate incentives for national personnel to be deployed abroad are both determinants of the current situation.

Experts identified by EU member states often do not have the required qualifications – in terms of language knowledge, experience in previous missions or specific skills – to be selected in the mission. This can be linked to the lack of an efficient training system at the national level, and the absence of an EU mechanism of training for these categories of personnel. The rate of rejected candidates for EULEX is constantly increasing. Overall, however, for lower to mid-level positions (as opposed to high-level officials who are politically appointed), the recruitment procedures respect (most of the time) that officials recruited fulfil the recruitment criteria.[128]

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[125] Interview with a EULEX official, in Pristina, on 20 May 2010.
[126] Interview with EULEX Justice Component official 1, in Pristina, on 8 May 2010.
[127] Interview with EULEX Justice Component official 2, in Pristina, on 10 May 2010.
[128] Interview with ICO official 2, in Pristina, on 26 May 2010.

In addition, the perception of some of the personnel interviewed is that while some units are overstaffed (i.e. the police monitoring component), others are suffering in implementing their mandate due to a lack of appropriate resources (i.e. the justice component, especially in the regional courts). The lack of an adequate number of criminal judges makes the establishment of trial panels difficult and requires the involvement of the EULEX civil judges at the pre-trial stage and as members of trial panels. There are also vacancies for first instance judges at the Special Chamber of the Supreme Court of Kosovo (SCSC), where the appointment of local judges is also a problem (at the moment there is only one local judge at the SCSC and seven vacancies for the Appellate and Trial Panels have been announced) (EULEX Kosovo 2009a: 46).

In some cases, the personnel deployed – for example, EULEX judges – do not necessarily hold equivalent high positions in their own country. Oftentimes, the deployed judges are not of the same calibre and lack the necessary knowledge of the local context. This latter point is of particular importance in Kosovo, where the largest number of cases concerns the contentious issue of disputed properties. These cases affect directly the population's everyday life (unlike EULEX activities in the field of counter-terrorism, organised crime and corruption) and can lead to personal vendettas between families. Indeed, international officials working on community relations attest that much of the inter-ethnic tension is due to unresolved property disputes.[129] EULEX judges usually do not have the contextual background to deal with such cases: where to go to obtain the necessary information; what documents are necessary for proof of ownership of land or property.[130] This situation slows down legal procedures and to a certain degree fuels inter-ethnic misunderstanding.

Yet, as part of its learning mechanism, the EULEX mission has concentrated on recruiting personnel that has a good understanding of the local context and the complexities of post-conflict environments in the Balkans. Thus, EULEX personnel consist of staff from other international organisations deployed in Kosovo and experts from (past and ongoing) CSDP missions in Bosnia-Herzegovina and Macedonia. The upshot of this situation is that they have regional networks – some even in Kosovo – which means that they can build relations of trust quickly (or have already established them). The disadvantages include that these tranche of EULEX personnel have developed a cynical view of the Western Balkans (and of Kosovo), as a region where corruption and organised crime are inherent elements of society, solidly entrenched and quasi-irremovable. Another disadvantage is that by (what seems to) having given more importance – perhaps as a result of the difficulty of finding enough qualified personnel for such a big mission – to knowledge for the local environment, EULEX has compromised on the level of expertise. Thus, some EULEX officials have had to learn to learn the job from scratch as they came from related fields (such as human rights protection and democratisation), but do not have specific knowledge on rule of law or justice.[131]

7. Impartiality

The unresolved Kosovo conflict and the persistent status question complicate the ability of international officials to be impartial, that is, to act unprejudiced, unbiased by specific group interests. On a personal level and depending on how long official have been in Kosovo there seems to be problems of partiality; at an institutional level, however, international actors deployed in Kosovo are quite unanimous in that EULEX acts impartially towards all Kosovo communities.[132] It was noted that the longer a EULEX official is deployed in Kosovo, the more difficult it is for him/her to be

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[129] Interviews with ICO officials 3 and 4 and OSCE official, in Pristina, in May 2010.
[130] Since the Serbia army took all the official records with them when they withdrew from Kosovo in 1999, an alternate system of documentation has been established to provide evidence of ownership of land/ property.
[131] Interviews with EULEX officials across the three components, in Pristina, in April-May 2010.
[132] Interviews with relevant international donors working on rule of law in Kosovo, in April and May 2010.

impartial.[133] As explained above, many of the mission personnel – especially EULEX police officers – were already deployed in Kosovo under UNMIK. Others, especially at policy-making level, have worked in other CSDP missions in the Western Balkans (in Bosnia-Herzegovina and Macedonia).

It is important to point out that the technical experts (particularly the judges and the prosecutors) as opposed to the policy officers (advisors, public relations, policy makers) in the mission insist on the independence of their profession and on upholding professional ethics (in line therefore with the international discourse on RoL reform assistance and the EULEX mandate). Consequently, judges and prosecutors insist on investigating, indicting and arresting anyone who breaks the law regardless of the political implications. While on the one hand the integrity of EULEX judges and prosecutors is to be heralded, on the other, the carrying out of their job "by the book" without consideration of the complexities and sensitivities of the local environment means that at times EULEX prosecutors and judges go after relatives of high level politicians without being aware of it. Such occurrences create discord and tension inside the mission between the political officers/advises and media/public relations experts, on the one hand, and the more technical personnel (judges and prosecutors) on the other. The former therefore find themselves dealing with "embarrassing political situations, which could have been avoided with the use of a bit of diplomacy".[134]

In addition, although EULEX is first and foremost a European undertaking, it is also strongly backed by the United States, which agreed to shoulder 25 percent of the operating costs while the remaining costs would be shared by European and other states. In October 2008, the US Department of State further agreed to provide EULEX with eighty police officers and up to eight judges and prosecutors (Art. 13, Joint Action, Council 2008a: 92; Fried 2008).[135] It is thought by some that this compromises the EU's neutrality and objectivity on the Kosovo issue.

Local perceptions of impartiality differ among the ethnic communities and given the conflict context are diametrically opposed. Kosovo Albanians who constitute about 90 percent of the population of Kosovo often complain that the international community favours Kosovo Serbs which are only four to eight percent of the population. For their part, Kosovo Serbs argue that the international community is not sensitive to the restrictions in the fields of protection, health and education to which they are subjected. In general, there is a need to demonstrate that Kosovo Serbs are well treated by the police (through their representation in the KPS, although this does not usually happen for high level positions) and by the judicial system. Ultimately, however, EULEX ends up engaging more with the Kosovo Albanians because the Kosovo institutions are more willing to work with the mission. Overall, it seems that it is the smaller minorities – Roma, Egyptians, Gorani and Ashkali – that are the most neglected, as they do not have a strong political voice. Thus, the issue may actually "not be one of impartiality but rather of some ethnic communities being forgotten".[136]

8. Innovativeness

The lack of innovativeness – to act with initiative and creativity (to invent or introduce new policies or products) – on the part of EUPT forced EULEX to become innovative in its everyday work with Kosovo RoL institutions. The EU needs to look at the lessons learned from past CSDP missions, but since EULEX is the first civilian mission, the first mission with an executive mandate, the first EU mission with a customs component and the biggest EU mission, it also needs to be creative.[137] The EU

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[133] Interview with a EULEX official, in Pristina, on 20 May 2010.

[134] Interview with EULEX Justice Component official 2, in Pristina, on 10 May 2010.

[135] Article 13 of the Joint Action explicitly provides for the participation of third states in EULEX.

[136] Interview with ICO official 2, in Pristina, on 26 May 2010.

[137] Interview with EULEX Police Component, in Pristina, on 27 May 2010.

Preparatory Team (EUPT) which preceded EULEX and which was responsible for its programming was characterised "a moving target that was hampered by a political process". It was accused by one of the respondents for not creating a backup plan in case Plan A failed to bring results, even though the mission was in Kosovo for two years – thus enough time to become aware of the intricacies of the political situation. Even as far as Plan A was concerned, EUPT staff were slow to support it and push it forward. They worked on the assumption that Kosovo would be recognised by at least 100 EU Member States, which did not happen. Moreover, the agenda promoted was very much centred on fighting corruption and organised crime.[138]

In addition, EULEX officers agree the status question of Kosovo requires international actors and donors to be innovative in order to bypass the political language and imbroglio. Hence, EULEX officials create networks and look for partners with similar interests willing to cooperate in their immediate entourage. However, such pro-active attitude is time consuming. The EULEX Justice Component, which has to tackle a substantial backlog on cases left behind by UNMIK, does not necessarily have the time to spare for networking. Furthermore, the fact that the Component is driven by the actions of the Kosovo authorities puts further constraints to innovativeness.[139]

9. Lawfulness

EULEX Judges and Prosecutors, have retained certain executive responsibilities by working together with the local counterparts in mixed panels or mixed teams, ensuring that cases of war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes are properly investigated, prosecuted, adjudicated and enforced, according to the applicable law (Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO; Law No. 03/L-053 "On the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo"; Law No. 03/L-052 "On the Special Prosecution Office of the Republic of Kosovo"). A persisting question remains, however: *what law is being implemented*?[140] According to the EULEX Programmatic Approach (EULEX Kosovo not dated: 3), "EULEX officers [will] act in full compliance with the applicable laws and regulations of the Republic of Kosovo." Yet, pint pointing a clear existing legal framework is not that straight forward.

The absence of a clear legal framework negatively affects both the implementation of the executive mandate in the Serb populated areas north of the Ibar river, but also the MMA (monitor, mentor and advise) formula that is essentially applied south of the Ibar river. It is therefore a source of ethical dilemmas: it compromises the value of lawfulness, that is, EULEX's "ability to act in accordance with existing laws and rules". One would assume that EULEX officials would apply the local law in the exercise of their mandate, as mentioned in the EULEX Programme Strategy. But what is considered as 'local law' is far from clear. As the mission was deployed within the framework of UNSC Resolution 1244, EULEX would logically have to stick to the UNMIK body of laws. This would imply that any legislation adopted after the entering into force of the Kosovo constitution would be – strictly speaking – illegal, as UNMIK had then ceased the practice of promulgating all primary and secondary legislation coming from the Kosovo institutions. This legislation was in many cases drafted with heavy input from EULEX experts or experts paid by the European Commission: EULEX judges and prosecutors would therefore have to ignore the laws that they had helped drafting and that were voted by the democratically elected Kosovo Assembly.[141] Not only does this situation render difficult

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[138] Interview with a EULEX official, in Pristina, on 20 May 2010.
[139] Interview with EULEX Justice Component official 2, in Pristina, on 10 May 2010.
[140] Interview with EULEX security personnel, in Pristina, on 13 May 2010.
[141] Email exchange with EULEX Justice Component official, on 10 Sept. 2010.

EULEX's quest to acquire respectability with its local counterparts and be accepted as mentors and advisors of the local justice institutions, but it also questions the concept of local ownership.

Until the declaration of independence the only existing law defined as applicable law were the UNMIK regulations.[142] Yugoslav laws were to remain applicable as long as they did not conflict with internationally recognised human rights standards, the UNMIK mandate or any regulation issued by UNMIK. In December 1999, UNMIK decided to use the Yugoslav Legal Code as it existed before Kosovo lost its autonomy (Heinemann-Grüder and Grebenschikov 2006: 44). The main criminal laws are in essence still the same, though in the index of the Kosovo Assembly there is also a new criminal code and a new criminal procedure code which was adopted in 2008. However, closer scrutiny of these documents reveals that the previous 'provisional' codes – the Provisional Criminal Code of Kosovo (PCCK) and the Provisional Criminal Procedure Code of Kosovo (PCPCK) – were simply readopted under a new title: the Criminal Code of Kosovo (CCK) and the Kosovo Criminal Procedure Code (KCPC). There are no new substantive codes yet. Since the content of the law is the same, the only way to distinguish whether old UNMIK regulations are used or the new Kosovo law in criminal judgments is applied is through the acronym used in the decisions.

While this is the practice of the law, EULEX does not actually have a policy or position on what is right and what is wrong: just as simply as Cyprus (a non-recognising country) would say use the 'provisional' law, just as simply Germany (a country that has recognised Kosovo) would accept the new laws. "The political dynamics dictate the use of 'new' laws in the heartland of south Kosovo (where the majority of the population is Kosovo Albanian). In the Serb-dominated areas of north Kosovo, one may continue with the provisional codes. However, given that these areas are lawless, there is little room for a dogmatic discussion up there."[143] Thus, ultimately, which law to use is largely left to the discretion of the EULEX prosecutor and/or judge.[144] It is therefore not surprising that the author collected differing and conflicting accounts from numerous EULEX officials as to which law was being applied on cases being prosecuted. Ethical questions ensue especially regarding the sustainability of a justice system that is not based on a clear and cohesive legal framework. Furthermore, it gives wrong messages to the local communities and once again disregards the sensitivities of long-term inter-ethnic management for the benefit of quick short-term solutions.

In practice, the distinction between UNMIK regulations and Kosovo laws matters in north Kosovo where the status question is a burning issue. In the heartland of Kosovo Albanian-dominated areas, the status and the question of applicable law is not an issue: the 'new' law is applied. A EULEX Justice Component official asserted that many Kosovo judges have problems using the 'right' acronym regarding the laws, since they were trained on the old ones.[145] In north Kosovo, however, EULEX judges and prosecutors better use the Provisional Codes. It is worth noting, however, that the courts north of the Ibar river barely function. Hence, only a few international judges so far master the most urgent cases. These cases are so old by now that they stem from the times before the declaration of independence and the adoption of newly labelled codes. Therefore, according to the procedures on criminal cases, the 'old labelled' law has to be applied. The question of choosing the legal framework

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[142] It essentially included UNMIK regulations adopted since June 1999, or in the case where there was no 'new' UNMIK law adopted in a specific area of law, then the older Yugoslav legislation was applicable from the time before the discriminatory legislation in 1989 came into power, or also younger non-discriminatory laws from between 89-99. Email exchange with EULEX Justice Component Official 1, in Pristina, 8 September 2010.

[143] Email exchange with EULEX Justice Component Official, in Pristina, 8 September 2010.

[144] The ICJ Advisory Opinion on Kosovo independence has created a political momentum which sweeps away the political Serbian strongholds. Moreover, the newly adopted UN General Assembly resolution on Kosovo – drafted and edited in cooperation with Serbia and all EU member states (including the five non-recognising EU member states) – should open the gates to talks and resolved gaps and questions regarding applicable law in Kosovo.

[145] Interview with EULEX Justice Component Official 1, in Pristina, on 8 May 2010.

will become a problem once newer cases surface. However, "due to the obstacles in north Kosovo, the judiciary should be safe for a few more months or so".[146]

It is within this uncertain context that EULEX judges and prosecutors must deal with the backlog of the 22,000 cases involving claims against KFOR, UNMIK and local municipalities. This includes *inter alia* having to categorise the claims and develop a general strategy for monitoring, mentoring and advising; finding solutions to the difficulties of notifying and summoning claimants; completing monthly monitoring checklists for each Kosovo region; and exploring the possibility of an alternative compensation scheme (EULEX Kosovo 2009: 46).

Last but not least, since Kosovo is not a recognised state, it is unable to join international conventions. Consequently, individual mechanisms and formulas must be created for the case of Kosovo which does not help to build sustainability in the reforms nor win the support of the local authorities. For example, a 'local inspection mechanism' is being created by the OSCE with funding from the European Commission Liaison Office (ECLO) to detect torture and human trafficking abuse, since Kosovo cannot sign up to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).[147] Such examples also link back to the issue of innovativeness being necessary to bypass political complications.

10. Profitability

As numerous EULEX and international donors attest, the EULEX mission weighs on the executive mandate, which tends to advance EU internal security concerns and thus EU profitability (defined as acting to achieve gain). As an ICO official maintained, EULEX is very profitable to the EU: first, establishing rule of law in Kosovo means creating a well-functioning state with defined borders and no internal threats that could spill over into the EU. Second, it could protect EU borders and ensure that transnational crime (drug and human trafficking and organised crime) do not enter EU territory. Third, refugees having sought asylum in EU Member States could be sent back to Kosovo.[148] EULEX officials interviewed agreed that the motto 'we help them to help ourselves' is a fundamental reality and a necessary evil for the deployment for missions such as EULEX, but within these broad boundaries a mandate that is responsive to local needs and realities and profitable for the host country is possible and is the case for EULEX.

Closer scrutiny of the activities emanating from the EULEX mandates testifies to a focus on countering organised crime, fighting corruption, securing integrated border management, combating cross-border and transnational threats (i.e. human and drug trafficking). Thus, for example, while the MMA Police Component is substantial (600 police officers), the rest of the units are executive: the judges and prosecutors; the financial intelligence unit; the correctional facilities unit; the missing persons and war crimes unit; and the executive police, to name a few. In practice, for lack of resources (financial but mostly human), EULEX prosecutors and investigators focused their action on a number of organised crime and war crime cases as a priority, therefore putting civil cases on the backburner.[149] Similarly, the monthly conclusions on the MMA in the Customs Component of EULEX have repeatedly pointed to the weaknesses in the Integrated Border Management to the detriment of areas that would help push forward democratic policing, such as the respect of human rights, protection of minorities and gender mainstreaming policies. While the implementation of the

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[146] Email exchange with EULEX Justice Component Official 1, in Pristina, 8 September 2010.
[147] Interview with OSCE official, in Pristina, on 20 May 2010.
[148] Interview with ICO official, in Pristina, on 26 May 2010.
[149] Ioannides' interviews with EULEX official, in Pristina, in April-May 2010.

executive mandate is more noticeable north of the Ibar river, where both the EULEX Justice and Customs Components, it is applied throughout Kosovo.

In addition, following the transfer of basic police training to the Kosovo authorities and local trainers, the international community – primarily led by the OSCE in the context of its support of training in the Kosovo Centre for Public Safety Education and Development (KCPSED) – offers advanced and specialised training and capacity-building on organised crime (criminal intelligence, counter-terrorism, cross-border control and human and drug trafficking) to the KPS, the judicial arm, the customs administration, the financial intelligence centre, and prosecutors. These initiatives are also carried out at a regional level (among all countries of the Western Balkans) through regional training and workshops. In this context, EULEX is engaged in on-the-job training through co-location at management level through its function of monitoring, mentoring and advising the local police and border police, judges, prosecutors and customs officers.[150]

Furthermore, plans to offer training in intelligence-led policing to the KPS – seen as part of efforts to gauge the Kosovo police toward democratic policing so as to enhance integrated policing with other security agencies – are a top priority. This approach would form the foundations of a broad-based programme to introduce a more effective use of intelligence throughout the Kosovo Police. Hence, an attempt was made to launch two MMA Actions ("Intelligence-led Policing" and "Improved cross-border intelligence") (EULEX Kosovo 2010: 18). The promotion of intelligence-led policing is also in line with much needed efforts, noted in the EULEX Programme Report 2009, to rapidly develop the use of criminal intelligence throughout the Kosovo police, a critical prerequisite to the organisation's success. Specifically, EULEX experts pointed to the need to develop an intelligence gathering culture in order to provide the basis for a proactive strategy in tackling organised and serious crime, government corruption and cross-border crime. In this context, joint training sessions are offered for police, prosecutors and judges to strengthen cooperation across the RoL field. In line with the mantra of 'local ownership' and creating sustainability, the OSCE (with the support of the EU) organises 'train the trainers' programmes and hands over curriculum to local trainers.[151]

Moreover, much of the police training carried out by local police trainers concentrates on studying the legislation (national police laws), map reading, procedures of patrolling, crime and interview techniques, drugs and fake document identification, and simulation games regarding crime scene observation, investigations, traffic accident simulation. Some training expressly drafted for multi-ethnic societies is included in the curriculum, but was only mentioned when prodded by the author. In particular, courses include: 'police activity in democracy', 'how to get knowledge about the diversity', 'policing multi-ethnic society' and 'police working in a community that is diverse'. There is also a one-week course on the respect of human rights.[152]

At the level of institution building, one of the first tasks of the international community was to create a Professional Standards Unit/Police Inspectorate in 2004-2005 which was in charge of dealing with serious corruption cases inside the police.[153] EULEX (in cooperation with ECLO, the OSCE and the US ICITAP) has been involved in the drafting of a strategic action plan on countering terrorism, immigration, illegal weapons and drugs. Thus, one can observe how 'a domain of practices and ideas which presuppose[s] a single "security continuum" along which the issues of immigration and asylum are closely linked to concerns with organised crime, terrorism and anti-drugs policy', as Bigo (1994: 164) eloquently puts it, manifests itself in practice. It also therefore constitutes a concrete expression of the blurring between internal and external security concerns.

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[150] Interview with OSCE international trainer (specialised training), in Vushtrri, on 11 May 2010.
[151] Interview with OSCE international trainer (specialised training), in Vushtrri, on 11 May 2010.
[152] Interview with a local police trainer, in Vushtrri, on 12 May 2010.
[153] Interview with local trainer (basic training, at KCPSED, in Vushrrti, on 12 May 2010.

The United States holds a prominent place in the development of the Kosovo institutions. First, its clear recognition policy – as opposed to the fragmented EU stance on the status question – has given it a prominent position on the decision-making stage (Kosovar Stability Initiative, 2008). Second, the amount of US American experts working in key positions in the EULEX mission has ensured that the United States has an important say in the future of Kosovo institution and access to sensitive information. Among other, half of EULEX prosecutors (who have executive powers) are US Americans; so is the Head of the Executive Police Unit in the EULEX Police Component, the Deputy Chief of Staff in the Head of Mission Office (who manages the reporting office, programme office and the evaluations of threats against EULEX staff) and the Head of the Lawful Interception Unit (who is responsible for legal phone tapping for the gathering of evidence in support of ongoing cases).[154] This arrangement also puts into question the core function of EULEX personnel, which is to monitor, mentor and advise their local counterparts on all areas related to the RoL, measured in terms of sustainability, accountability, multi-ethnicity, freedom from political interference, and according to European best practices. An interviewee also linked the important presence of US Americans in an EU mission to issues of accountability as the concern that EU missions "are not so European in the end" was expressed.[155]

11. Responsiveness to EU citizens

The issue of whether EU rule of law reforms in Kosovo correspond to the preferences of EU citizens was not considered a priority by the majority of EU workers in the field, as opposed to officials working in the EU institutions in Brussels. Overall, there was a feeling that the EU citizen is far away from Kosovo reality and is not necessarily aware of what EULEX is doing there. Sadly enough, one respondent explained, "the media covers peace support operations in detail when black body bags are coming back, which is not the case in Kosovo".[156] Another EULEX official mentioned that they were conscious of the fact that missions such as EULEX were funded by the tax payer: in that sense, at what pace the reforms are progressing in Kosovo and where the weaknesses in the process are should matter of interest to the EU public. However, much information is available on the mission's webpage; it is nonetheless up to the EU citizen to be proactive and visit the website to find out what the EULEX activities and initiatives are.[157]

12. Responsiveness to third countries/territories

Responsiveness of EU rule of law reforms in Kosovo according to the preferences of local stakeholders and Kosovo civil society was automatically associated to the notion of local ownership. The *EULEX Programme Report* (2010: 6) professes that local ownership is one of the foundations of its mandate:

> "The EULEX Programmatic Approach is based on a rigorous adherence to the principle of 'local ownership'. In practice this has meant that the final responsibility for translating each recommendation into a MMA Action has rested with the relevant institutions in Kosovo's rule of law. In this way, the EULEX programmatic approach is designed to help Kosovo's rule of law bodies to make the changes themselves, rather than rely upon an international presence to do it for them."

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[154] Interview with EULEX security personnel, in Pristina, on 18 May 2010.
[155] Interview with EULEX official, in Pristina, in May 2010.
[156] Interview with EULEX Justice Component official 2, in Pristina, on 18 May 2010.
[157] Interview with EULEX officials, in Pristina, in April-May 2010.

In line with this policy, at a meeting with civil society representatives, Peter Feith (2008), in his capacity as EUSR and head of the International Civilian Office, stressed that: "Our philosophy is that Kosovo Government is in the lead; we are not here to lead we are here to support and advice". This statement is seen by relevant local stakeholders interviewed as contradictory, since EULEX holds substantial executive powers.[158]

Indeed, while Kosovo authorities show good will to follow international prerogatives, it is not easy to overturn the corrupt people currently in power.[159] The ability of the KPS to fight serious crime, however, is curtailed by the fact that crucial areas of crime-fighting remain a *domaine reservé* of internationals therefore not creating the necessary locally trained personnel. EULEX staff has worked together in the UNMIK Interpol Office. The EULEX mission has established closer relations with the Southeast European Cooperative Initiative Centre (SECI), EUROPOL (with which it has signed an agreement for exchange of information), the European border management agency – FRONTEX, and has liaised with and assisted the International Criminal Tribunal for the former Yugoslavia. It has contributed to the completion of strategies and action plans on integrated border management, organised crime, drugs, terrorism and more recently migration. It has played a significant role in initiating an ongoing legal cooperation between Serbia and Kosovo and conducting a formal exchange of information with Belgrade to fight organised crime in the region. KFOR which acts according to the maxim 'safe and secure environment', which international officials agree offers poor guidance for delineating military from policing work, has also signed a Memorandum of Understanding with EULEX. The mission has also used its executive powers in the areas of corruption and war crimes. Both EULEX judges and prosecutors and EULEX police have been variously involved in searches, investigations, arrests and convictions. The most high-profile EULEX raids – carried out with police officers from the Anti-Corruption Task Force of the Special Prosecutors Office of Kosovo – targeted the Kosovo Minister of Transport, Fatmir Limaj, last May. Other suspects have included the Governor of the Central Bank of Kosovo, the Post and Telecom of Kosovo director, an ex-Permanent Secretary from the Ministry of Health, a former Pristina District Court judge, and an IT administrator in the Kosovo Government; and a former KLA leader has been arrested suspected of war crimes (EMGportal 2010).[160] Thus, a confusing message is sent on local ownership, similar to the one that UNMIK had sent.[161]

The one area where there seems to be a better links between local and international actors is in the area of policing. OSCE personnel, the mission that set up and has been working with the Kosovo Police Service since 1999, attest to the importance of local ownership. "The most successful projects have been those where the OSCE, the Kosovo Police and EULEX work together."[162] EULEX officers are

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[158] The ambivalent approach to Kosovo's political conundrum is ingrained in the rather schizophrenic 'double hatting' of the EUSR with the ICR, which leads to much confusion. The ICR (with a staff of approximately 250) heads the International Civilian Office and draws his legitimacy from the Comprehensive Status Settlement and from the Kosovo Constitution. This repartition is purely administrative. In reality, the two offices are not strictly separated and their staff generally performs support functions for either of the two mandates. He is resolutely pro-supervised independence and recognises the Republic of Kosovo, its constitution and its institutions. On the other hand, the same person acts as EUSR (with a staff of five) and does not recognise the Republic of Kosovo and continues regarding UNMIK and UNSCR 1244 as the highest authority in Kosovo. The EUSR's mandate is limited to 'support the Kosovo authorities in developing a stable, viable and peaceful multi-ethnic Kosovo', thus repeating the ritual and uncontroversial mantra of the international community since 1999.

[159] Interview with EULEX Justice Component official 1, in Pristina, on 8 May 2010.

[160] Also, the Counter-Terrorism Unit and the Kosovo Organised Crime Bureau (KOCB) were transitioned to the Kosovo Police, a practice started by UNMIK and taken up by EULEX Kosovo.

[161] Not willing to assume both the cost of administering Kosovo and the blame for failure to deliver, UNMIK sped up the process of devolution competences of the Provisional Government. By early 2005, the PISG had already taken over an impressive number of competences from UNMIK. This process reached its culmination point by setting up a Ministry of Interior, a Ministry of Justice and a Kosovo Judicial council in December 2005 (Koeth 2010: 231).

[162] Interview with OSCE official, in Pristina, on 17 May 2010.

seen as working well with locals by other donors. Interviewees working for other international missions in Kosovo attributed this to the fact that many EULEX officials (particularly the police) have been deployed in Kosovo for years under different umbrellas (e.g. working for UNMIK or the OSCE) and are therefore familiar with the environment and its sensitivities. According to an OSCE official, creating a direct relationship with the police (through EULEX co-location, for example) and reporting problems to the Chief of Police, creates trust between local and international police and helps build sustainability in the reforms.[163]

Local populations in post-conflict settings are not passive victims or neutral actors, but participate in the reconstruction process as authentic actors, as Béatrice Pouligny (2001) argues. Consequently, Kosovo stakeholders can also think strategically and are mostly suspected and accused by respondents of cooperating to have access to more donors funding. This approach can also have positive consequences: for example, the Kosovo Police instrumentalise the recommendations included in the OSCE Human Rights Report for their funding efforts.[164] Kosovo is a very young society and thus those young people tend to hold high positions (sometimes even decision-making positions) in government and key civil society organisations. Hence, they expect results and change for themselves, not for their children; that they want change to come now, next month. They thus have a different incentive for making things happen. The future for them is very immediate.[165] The consequence is that Kosovo is a very dynamic environment.

Simultaneously, it must be pointed out that local police trainers and police officers admit that Kosovo may not be ready to take up the tasks that are currently run by donors. They uphold, for instance, that since the management of the Kosovo Centre for Public Safety Education and Development (KCPSED) was transferred to the Kosovo authorities, the buildings are not well kept and procedures do not work as well as they used to.[166] Moreover, Kosovars frame independence in a negative manner – they talk of independence from Serbia rather than independence for Kosovo – and fall back to Serbian 'occupation' to justify their lack of proactive-ness, the lack of productivity, results and lack of change of change of mentality. "Kosovo politicians, but also the broader population, need to start looking at Kosovo as a space where they work for themselves and their own future". [167] Other officials stress that the Kosovo institutions are "under stress" and are unable to take responsibility for the reform and institution building in the current political phase. According to EULEX Justice Component officials, local prosecutors (working in cooperation with EULEX prosecutors) find themselves in a very vulnerable position when they have to go after criminals who are powerful both in political and financial terms within their own community (e.g. war criminals and warlords).[168] In this context, the notion that 'no one is above the law' that EULEX launched with the high profile raids against the Minister of Transport last May is revolutionary for Kosovo society; until then the practice of law was indisputably in favour of those in power.[169] This pro-active behaviour, as it was seen by both international and local stakeholders, also helped delineate EULEX from its predecessor UNMIK. It is also emphasised once more that international presence is significant and the executive mandate of EULEX necessary.

The issue of non-recognition does not allow the Kosovo institutions to take responsibility. Without a clear timeframe, the idea of 'local ownership' of security matters is deferred to an unknown future

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[163] Interview with OSCE official, in Pristina, in May 2010.
[164] Interview with OSCE official, in Pristina, in May 2010.
[165] Interviews with NGO representatives, in Pristina, Mitrovica and Prizren, in April-May 2010.
[166] Interviews carried out at the Kosovo Centre for Public Safety Education and Development (KCPSED), in Vushtrri, on 11 May 2010.
[167] Interview with ICO official 1, in Pristina, on 15 May 2010.
[168] Interview with EULEX Justice Component official 1, in Pristina, on 16 May 2010.
[169] Interview with ICO official 1, in Pristina, on 15 May 2010.

date and compromises the motivation of Kosovo stakeholders to ensure sustainable change, an EULEX official maintained. Indeed the very use of the term 'Kosovo institutions' rather than 'Kosovo authorities', which is used for other non-recognised leaderships such as the Palestinian and the Turkish-Cypriot communities, absolves the Kosovo leaders from responsibility towards their constituents. Moreover, the delicate status issue affects the ability of Kosovo to participate in regional forums, such as Central European Free Trade Agreement (CEFTA) and the visa liberalisation regime.[170] Unlike what an official in Brussels had claimed[171], for example, Kosovo officials have trouble entering into BiH to participate in the meetings on regional JHA issues organised by SECI. Only the main 'IPA Regional' negotiator for Kosovo has the necessary documentation giving him access to Sarajevo. The rest of the team faces great constraints in entering the country. Papers are sent to the BiH Embassy in Skopje, but on occasions the Kosovo authorities do not even receive a response. It only after US intervention and threats that the SECI seat would be moved away from Sarajevo that permits for the Kosovo team were issued. "In the end, it is the Americans who have solutions and who manage to resolve problems."[172]

Furthermore, the notion of EU responsiveness to local realities was also assessed *vis-à-vis* profitability to the benefit of EULEX. International donors point out that EU missions tend to focus on securing EU borders and neglect internal concerns. For instance, it was pointed out that a bigger focus on construction permits would help curb corruption and deal with disputed property issues.[173] In addition, very little activity exists in the field of reconciliation; all issues and especially security sector reform are addressed in a technical manner, disconnected from socio-political processes. Thus, there is also little opportunity to deal with much underlying frustration in the Kosovo Serb population, which views does not view elections as a venue for democratic culture, but as another example of rampant corruption.[174] EU responsiveness to Kosovo was also associated to impartiality, in that EU initiatives cannot always take into account the views of relevant stakeholders if they contradict safeguarding the balance between the ethnic communities. Kosovo Albanians, for example, do not see the necessity of having reserved seats in the Assembly for Kosovo Serbs.[175] The EU cannot always be responsive to the expectations of local authorities. The political establishment, similar to the Kosovo institutions, is also in transition: this means that they do not necessarily have the education or skills, "but we need to put up with them. They were voted into office through elections."[176]

13. Social Justice

EU officials in their majority felt that the issue of social justice, broadly defined as an act out of commitment to a just society, touched upon their personal value system and interpretation of motivations for being in this line of work rather than ethical questions linked to the work *per se*. For a number of respondents, the question of *who* is the 'just society' remains unanswered. The notion of promoting inter-ethnic peace and democracy fell into this category. There is not 'one' society in Kosovo: rather, it seems that one's just society is another's unjust society.[177] Thus, while on paper

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[170] Interview with ICO official 2, in Pristina, on 26 May 2010.
[171] Interview with SSR expert, in Brussels, in March 2010.
[172] Interview with Kosovo official, in Prizren, on 2 May 2010.
[173] Interview with ICO official, in Pristina, on 26 May 2010.
[174] The Kosovo Serbs vote in separate elections organised by Belgrade (besides the ones organised by the Kosovo institutions). It is around these Belgrade held mayors that the parallel structures function. Thus, in Gracanica, for example, there are two majors – one voted into office during election organised by Belgrade and the other elected though the electoral process organised by the Kosovo institutions. Interview with local expert working for an international donor organisation, in Pristina, on 27 May 2010.
[175] Interview with ICO official, in Pristina, on 26 May 2010.
[176] Interview with senior international official, in Pristina on 27 May 2010.
[177] Interviews with international representatives, in Pristina and Mitrovica, in April and May 2010.

there seems to be progress in meeting minority representation, even at senior level (e.g. the Head of Operations in the Ministry of Internal Affairs is a Kosovo Serb), minority rights are not safeguarded in Kosovo and the smaller minorities (e.g. Turks, Ashkali, Roma) are leaving Kosovo. Moreover, reality is different for Kosovo Serbs living north of the Ibar river than those living south of the river's banks. Though the Kosovo institutions include two high ranking ethnic Serb Ministers – Nenad Rasič as Minister of Labour and Social Welfare and Saša Rasič as Minister of Community and Return, neither of which holds office in sensitive security related areas – the feeling is that it still views Kosovo as a state for ethnic Albanians. In parallel, in north Kosovo, ethnic Serbs consider that they are still in Serbia (they use the Serbian language, dinar, energy facilities, telephone networks, car number plates, parallel Serbian institutions and Serbian paramilitary security forces), in the south ethnic Serbs who live within the majority Kosovo Albanian population are slowly settling for pragmatism and perhaps even warming up to their new 'homeland'.[178]

Through their daily work on the side of Kosovo police, prosecutors, judges and customs officials and the relations created at personal level (especially for those co-located), EU rule of law experts become aware of the delicate balance that one hopes to keep between communities when deciding on the future of Kosovo (issues of stability, development, poverty, enduring corruption and organised crime). One could also argue the quest for social justice is related to the value of impartiality (developed above). Some respondents maintained that the politics of peacebuilding – the constant effort to accommodate EU MS interests and the bureaucratic 'Brussels games' – frustrate potential commitment to a just society. Others had a more cynical outlook on the issue of 'social justice' claiming not to pursue such altruistic goals, since they know they will only be met with disappointment. The fluctuating reputation of the mission, according to some EULEX officials interviewed, demonstrates that the issue of social justice is not embedded in the workings of the mission or its work culture. These officials tend to link social justice with effectiveness of action and dedication, in that, if indeed social justice was of primordial importance to the mission, more would be done to achieve the declared aims. The latest raids, based on the ideals of respect of rule of law (thus of justice), have created high expectations on the part of the Kosovo society. EULEX officials, however, doubted that the mission would be able to live up to such high expectations. The on-hands experience of working in conflict-torn and conflict-prone environment can explain the dichotomy between opinions on the issue of 'social justice' in the field and those expressed by EU officials working at the HQ, many of whom have not worked in post-conflict societies.

On a different note, other EULEX officials link organised crime to socio-economic and political development arguing that it is corruption and organised crime that hamper the creation of a democratic political culture in Kosovo.[179] They therefore link the fundamental aims of the EULEX mandate to moving Kosovo towards achieving social justice. Rule of law put aside, it is real everyday problems that render life difficult in Kosovo. Smaller minorities, groups – Bosniaks, Croats, Gorani, Roma, Ashkali and Egyptians, and Turks – as well as Serbs and Albanians living outside the main areas of population of their respective communities, suffer from lack of access to information or tertiary education in their own languages, attacks and occupation of their homes, and discrimination due to association with the former Serb majority.[180] Furthermore, tough economic conditions have resulted in members of minority communities starting to leave Kosovo altogether (Stevens 2009). Poor investment in protection mechanisms and despite the quota system, the KPS finds it difficult to operate in minority areas.

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[178] Interviews with ICO officials (international and local), in Pristina, on 27 May 2010.
[179] Interviews with EULEX officials in Pristina and Mitrovica, in May 2010.
[180] Interview with ICO officials (international and local), in Pristina, on 27 May 2010.

14. Transparency

Transparency, defined in the survey as to "act openly, visibly and in a controlled manner", was often linked by respondents to the issue of accountability and responsiveness to Kosovo needs (see section above) and received mitigated accounts on its importance. Substantial efforts have been made to be open to the Kosovo public, which compared to other CSDP missions is admirable: EULEX has, for example, created a very detailed website where it not only includes the official mandate and Council decisions related to the mission, but also gives access to the evaluation reports prepared, diverse documents explaining how the mission works, explanatory analysis on the meaning of terms (e.g. what is 'monitoring, mentoring and advising') and has even included the verdicts of cases (most of them also in Albanian and Serbian). The website is also available in the three languages: English, which is the mission language, Albanian and Serbian.

EULEX has also been more open to Kosovo civil society than other CSDP missions (cf. Ioannides 2007). The mission regularly organises meetings and round table discussions between the mission (and also with specific components) and key local NGOs to share information and exchange concerns and ideas, even though civil society actors can be critical of EULEX's role in Kosovo. It even has a list of NGOs they can call upon when EU officials from Brussels are on a visit to Kosovo. Most intelligently, EULEX has learned to use civil society as a source of information, as a networking tool, and as a pulse of broader societal needs and expectations. Kosovo society is tight-knit and small, what international officials popularly refer to as "everyone knows everyone here!", which implies that the Kosovo population is not only aware of the existence of organised crime networks but also knows who is in them.[181] Contacts with Kosovo civil society are also a public relations tool allowing the mission to explain its mandate to the Kosovo people, something that was thought significant in order to dissociate EULEX from its predecessor UNMIK.[182] However, this consultation process remains very much centralised. As it often happens in post-conflict environments, the main international donors are concentrated in the capital (in Pristina in this case) and consultations with NGOs and civil society at large (even in the case of EULEX) take place primarily in Pristina. Indeed, NGOs in the rural areas (Prizren, Pec and particularly in Mitrovica) complained that EULEX did not consult with them and that they were left out of any decision-making process that was relevant to their communities.[183] Being far away from the centre also means that they are neither informed on the specific RoL reforms carried out by Kosovo institutions nor on the EU initiatives in progress.

As far as being transparent to other international actors, an international respondent observed that EULEX successfully traced back its actions to its mandate and that while it was not always clear what it wanted to engage in, "they are clear about what they do not want to do".[184]

15. Other values

Overall, very few respondents took the opportunity to voice and/or share other value concerns surrounding the EU efforts in rule of law reform in Kosovo. Interviewees felt that the survey handed out to them and the discussion that ensued around the specific moral principles[185] covered a wide spectrum of value dilemmas they face in their everyday work. They considered that the answers they

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[181] Interview with ICO official 1, in Pristina, on 15 May 2010.

[182] Interview with EULEX Police Component official, in Pristina, on 27 May 2010.

[183] Interviews with NGOs in Pristina, Pec, Prizren and Mitrovica (north and south) and EULEX officials in Pristina, in May 2010.

[184] Interview with senior international actor, in Pristina, on 26 May 2010.

[185] These include: accountability; dedication; effectiveness; efficiency; expertise; impartiality; innovativeness; lawfulness; profitability; responsiveness to EU citizens; responsiveness to third countries; social justice; and transparency.

gave touched on all key facets of this issue and did not believe that other principles were of added value.

Interviewees who voiced further value premises and dilemmas encountered in initiatives on EU rule of law reforms attested to the need for "passion for change" and a very high level of drive, which is required when working in conflict environments. "Dedication is not enough", it was claimed.[186] Furthermore, EULEX officials (particularly technical experts) noted the "importance of independency" and "the right to act in a non-politicised environment".[187] This statement emanated from the frustration EULEX officials feel when trying to implement and/or assist the implementation of rule of law reforms in the Kosovo politically charged environment. Local stakeholders pointed to the need for "understanding the sensitivities of the local environment", which is different than knowledge and expertise of technical nature (policing, justice, customs administration) that is required for the specific job.[188] Another value premise that emerged was the need for "sincere involvement as in personal commitment" (beyond responsiveness to Kosovo and to EU citizens) and "responsibility of action".[189] Similarly, a senior Kosovo official, mentioned the need for solidarity towards Kosovo (which is different than commitment); it implies a personal engagement with the country/society in which EULEX (and other international) officials work. An international worker argued in favour of EULEX adopting a "cooperative approach", making a distinction from effectiveness and efficiency: a "cooperative approach" is not result oriented but rather process oriented.[190]

Interestingly, not one of the author's interviewees mentioned coherence of action and/or policy as a value they reflect on, despite the fact that coherence (both as a value and as a strategy for action) is proclaimed at the highest level and is part of the European Security Strategy (2003: 11) motto "more active, more coherent and more capable". When prodded, EU officials admitted that coherence has become a taboo issue and is now such a usual currency in EU documents that it has been devalued in the consciousness of EU officials and is not thought of actively. It was also noted that the principle of coherence falls within the realm of politics rather than operational reality, that is, it is expected from other actors – the EU capitals, the EU institutions in Brussels, and the Kosovo institutions – to ensure that it is respected.

A number of concluding comments based on the results from the empirical research presented above, follow Topic 2. The Conclusion synthesizes key findings and helps draw recommendations (which the reader can find at the beginning of this report) that arise from a cross-examination of the two legs of this research project (Topic 1).

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[186] Interview with EULEX prosecutor, in May 2010.
[187] Interview with senior EULEX official, on 27 April 2010.
[188] Interview with NGO representative, in Gracanica, on 4 May 2010.
[189] Interview with NGO representative, in Pristina, on 30 April 2010.
[190] Interview with UNDP official, in Pristina, on 14 May 2010.

Shifts in Ethical Values and Value Dilemmas in EU Member States' Security Practices

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V.   *Introduction*

1.   Background Analysis

This part of our research deals with two case-studies, namely:

a. The security policies implemented in both the Netherlands and the UK to tackle radicalisation and terrorism.

b. The forced return to Libya of migrants intercepted on the high seas by the Italian authorities, and the alleged role played – or that could be played in the future – by FRONTEX in such a kind of operations;[191]

The two selected case studies, on the one hand, definitely rely on hot and topical issues; while, on the other hand, may well represent examples of significant security policies of European states. More in detail, both case studies represent a crucial part of the ongoing discourse on the relationship between migration and public security in Europe. In addition, they both raise a number of significant questions at the moral, political and legal level, being a visible sign of a more general shift in the concept of public security and in the instruments the EU member states are willing to use to achieve it.

Both case studies also focus on immigration as a perceived security threat for European countries. Immigration is reportedly one of the major issues of concern for the EU itself (see e.g. Rees 2008, 99-100) and its member states' citizens (see e.g. Sides and Citrin 2007). In other words, today immigration is generally regarded as a fundamental part of the 'security prism' (Bigo 2002, 62) in Europe and its importance in future security studies is doomed to increase, due to new exclusive and identity-focused European and national policies adopted following the September 11 attacks (Guild 2003).

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[*] For the realisation of this report, I am indebted to a number of people and organisations. First and foremost, I would like to thank all the officers who kindly accepted to be interviewed. Their names are reported in a list attached to this report (see *infra* List of interviewees). The same applies to the respondents who decided to remain anonymous. I also wish to express my gratitude to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), the *Koninklijke Marechaussee*, the *Direzione Centrale dell'Immigrazione e della Polizia delle Frontiere* of the Italian Ministry of Interior, the *Procura della Repubblica* of Siracusa (Italy), and the *Dienst Speciale Interventies* (DSI) of the Dutch Police Force for authorising my interviews with their personnel. I am also particularly grateful to Lt. Gen. (ret.) Minze A. Beuving, Brig. Gen. André A. Peperkoorn and to two anonymous officers of the Dutch Ministry of Interior for their more than kind assistance in supporting my interview requests with other organisations and officers. Finally, thanks are due to the academics, military and police officers who accepted to meet up and exchange useful information and data. Among them there is one officer to whom I am particularly grateful. His support has been decisive for this research. *Thank you very much, Commander*.

[191] The involvement of FRONTEX in the interception of migrants at sea was excluded by the Agency's Executive Director during an interview with the author (see the Appendices to this Report).

With regard to the first case-study, it may be noted that the issue of radicalisation and terrorism is mostly considered by national and European authorities as the product of a sectarian culture generated within urban communities of migrants, especially from Islamic countries. Investigations over suspect terrorists almost always concern Asian immigrants or second-generation citizens, while practically all government policies aimed at tackling radicalisation are focused on Islamic communities or concentrated in areas which are densely populated by Islamic citizens and immigrants. Nevertheless, the adoption of more stringent anti-immigration or anti radicalisation/terrorism policies presents ethical, political and legal challenges for the European and member states' institutions, as they could possibly conflict with human rights law and the idealistic inclusiveness principles on which the EU is founded or otherwise which are included in the EU constituent treaties and member states' constitutions. On the other hand, while therefore at the policy-making level such practices may imply a visible shift in the promotion of European ethical values, it is still to be seen whether and how the same shift occurs at the operational level, i.e. when these new security practices have to be effectively implemented by the competent member states' national institutions.

Concerning the second case study, in general, the EU approach towards Libya has been tightening year by year (Hamood 2008a&b, EC 2008). Since the lifting of international sanctions in 2003, the EU has gradually begun to engage into informal dialogues and consultations with the north-African country. A negotiating process for a framework agreement started at the end of 2007. Proposals for the EU to enter into agreements with Libya and Turkey – as countries of transit of irregular immigrants – were for instance put forward by the French delegation to the Council in September 2009 (EU Council 2009). The EU Parliament on its part has recently requested the Commission and the Council to be 'immediately and fully informed at all stages of the procedure on the negotiations with Libya', invoking Art. 265 and 218(10) of the TFEU. (European Parliament 2010). On the national level, Italy in 2009 ratified (Law No. 2009/7) a Treaty on Friendship, Partnership and Cooperation' with the Great Socialist People's Libyan Arab *Jamahiriya*. The close diplomatic links between the two countries are openly aimed at stopping the flow of boat people from the North-African coasts.

The two case studies also appear *prima facie* as examples of this external/internal continuum in the security policies of European countries (see infra Ch. VI, sec. 2) – a concept which lies at the foundation of the INEX Project itself. The forced return of migrants is *per se* a clear example of a national (internal) security policy having international (external) character and effects. Again, the adoption of anti-terrorism measures normally aims at contrasting a threat which is perceived as being inherently external (this explains the alleged link between terrorism and immigration) even when such policies are implemented by national authorities. Similarly, anti-radicalisation policies are carried out locally, targeting especially immigrant communities. This reproduces at micro-level a conflict between two inter-related dimensions: internal and external (to the 'national society'). Therefore, such policies end up being carried out – once again – along this continuum.

The choice over the countries (i.e. Netherlands, United Kingdom, Italy and Poland/Warsaw, where FRONTEX HQ is located) has been made on the basis of their relevance for the selected topics, as well as access to respondents. With regard to the first case study, the echo on the Italian and European media of formal protests and criticisms against the forced return of migrants at sea has been huge in the past months, being also at the centre of a political struggle between the European, the Italian and the Maltese authorities, which is still to be entirely solved.[192] In no other European country the same topic has received so much attention by the public and has generated so significant political

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[192] For example, FRONTEX Operation Nautilus has not taken place in 2010 for the firm opposition of the Maltese government to host the mission on its territory. Opposition grew after the adoption of the Council Decision on the Rules for FRONTEX Maritime Operations (EU Council 2010).

repercussions as in Italy,[193] notwithstanding that the same kind of practices is currently carried out by Spanish and Greek forces. In Italy, in fact the current political debate is highly focused on the consequences of the recently-issued security laws (Laws Nos. 2008/125, 2009/38, 2009/94) and their explicit reference to the fight against illegal immigration as a tool to improve the security of citizens.

With regard to the first topic, it is also worth nothing that both the UK and the Netherlands are the leading countries (with several differences, though) within the EU, as for anti-radicalisation/terrorism policies. This is due, first of all, to the fact that radicalisation and terrorism are considered very hot issues in both countries. For example, both nations have recently adopted harsh counter-terrorism legislations, including administrative detention, use of intelligence information or classified evidence in courts and deportation of foreign nationals on national security grounds.[194] Conversely, in both countries, notwithstanding the establishment of new terrorism-related criminal offences and the amendment of the existing ones, the prosecution of suspect terrorists have so far led to meagre results.[195] Besides, both countries have adopted policies aimed at preventing radicalisation and extremism among immigrant communities as a precondition to stop the spreading of internal terrorism. This issue has represented an important part of the current Dutch and British public/political debate, especially since the London/Madrid bombings and the *Fortuyn*/*van Gogh* murders (Buijs et al 2006).[196]

As for the UK, the recent adoption of tough anti terrorism/radicalisation policies is due, *in primis*, to its traditional political proximity to the US (a 'special relationship' which was tighter during the 'Blair's years'), and to the similarity of their legal and judicial systems (e.g. they are both common-law countries). Then, of course, it must be reminded that the UK has recently been the target of home-made terrorist groups (see e.g. the 2005 London bombings and the failed so-called 'Airline

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[193] The Italian Minister of Interior and other Undersecretaries of state for the Interior have been called to account for the issue of the forced return of migrants at sea during several parliamentary debates. See for instance those of 25 May, 22 September and 24 November 2009, as well as that of 14 April 2010, available at
http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=Resaula&leg=16&id=00424000&part=doc_dc-ressomm_rs-gentit_idmdisqcaiecd&parse=no,
http://www.interno.it/mininterno/export/sites/default/it/assets/files/17/0895_Audizione_Mantovano_comitato_Schengen.pdf; and
http://www.camera.it/resoconti/dettaglio_resoconto.asp?idSeduta=251&resoconto=stenografico&indice=alfabetico&tit=00070&fase=00010, http://nuovo.camera.it/470?stenog=/_dati/leg16/lavori/stenbic/30/2010/0414&pagina=s020,
respectively. The Minister of Interior was even summoned on charges of 'abuse of office' by a group of opposition MPs for having ordered the operations in question. Charges were eventually dropped by the Tribunal of Ministers in Rome (*Quotidiano Nazionale* 2009).
[194] See, e.g. for the Netherlands: the 2004 *Wet terroristische misdrijven*, the 2005 *Wet bevoegdheden vorderen gegevens*, the 2006 *Wet afgeschermde getuigen*, the 2006 *Wetboek van Strafvordering, het Wetboek van Strafrecht en enige andere wetten ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven*; for the UK: the 2001 ATCSA, the 2005 PTA, the 2006 Terrorism Act, the 2008 Counter-Terrorism Act.
[195] According to media information, since 2001 in The Netherlands 153 people have been arrested on terrorism charges. Their prosecution has so far led to 20 convictions and 22 acquittals, while two thirds (88) of the arrested people have been further released without being charged (Derix and Thie 2009). In the UK, according to the official data from the Home Office, up until 31 March 2008, 1471 people had been arrested on terrorism charges. 340 (23%) had been further prosecuted, while only 102 (7%) had then been convicted for terrorism-related offences. Others had been deferred to anti-immigration authorities but the vast majority (819 - 56%) of arrested people had been released without any formal charge (Home Office 2009).
[196] See for the Netherlands the reports issued by the National Intelligence Agency (AIVD) in 2004 (AIVD 2004), and 2007 (AIDV 2007), as well as its 2009 Annual Report (AIDV 2009). Significant are also the quarterly Terrorist Threat Assessment Netherlands, prepared by the NCTb (the latest Progress Report is available at
http://english.nctb.nl/current_topics/Anti_terrorism_progress_report). As for the UK, see the Government's triennial counter-terrorism strategies – CONTEST – adopted so far in 2003, 2006 (available at
http://security.homeoffice.gov.uk/news-publications/publication-search/general/Contest-Strategy?view=Binary) and 2009 (available at http://security.homeoffice.gov.uk/news-publications/publication-search/general/HO_Contest_strategy.pdf?view=Binary).

Bomb Plot') and that Britain owns a well-established tradition in the implementation of counter-terrorism measures (see especially the fight against IRA). Furthermore, the migration and integration policies in the UK have traditionally reflected a multicultural approach, aimed at promoting social cohesion through the formal recognition of immigrant communities within the society, also allowing the same communities to maintain their original cultural identities. However, in the last years this social integration model has come under criticism as it would favour the breeding of radicalism and extremism especially within communities of Islamic immigrants and 'new citizens'. Therefore, communities have become the main target of anti-radicalisation/terrorism policies. Ultimately, British counter-terrorism policy has deeply influenced the EU counter-terrorism strategy.[197] This is mainly due to historical reasons, as both the European anti-radicalisation (EU Council 2005c) and anti-terrorism (EU Council 2005d) policies were originally adopted under the British Presidency of (the Council of) the European Union. In conclusion, in no other European country, the link between immigration, citizenship, national identity, radicalisation and terrorism has become so strong, above all as a consequence of post-9/11, US-inspired, new national security policies.

Nevertheless, since 2004 the Netherlands has practically followed the same British approach to counter-terrorism, by amending its criminal law system and introducing (or trying to introduce) UK-style anti-terrorism measures (including changes at the institutional level). A clear example of this similarity is the possible future introduction of administrative measures to restrict the freedom of movement of terrorist suspects, adopted in the wake of the British 'control orders'.[198] The current criticisms in the UK against this kind of security practices are delaying the approval of the bill in the Netherlands.[199] However, the analogies between the UK and the Netherlands are not limited to the legal plane but also involve the organisational framework of anti-terrorism agencies and the contents of relevant policies. For instance, at the Government level, the steps taken by the Netherlands to coordinate its intelligence services look similar to those made by the UK in establishing the Joint Terrorism Analysis Centre (JTAC), while the anti-terrorism strategy elaborated by the NCTb (*Nationaal Coordinator Terrorismebestrijding*, National Coordinator for Counterterrorism) clearly resembles the British CONTEST (Gregory 2007, 126). On the other hand, some previous research undertaken within the EC 6th Framework Programme has already assessed the proximity and the leading role of these two countries on the matter of prevention of terrorism and radicalisation (TTSRL 2008, 18).

Ultimately, even the traditional integration model of the two countries looks similar. While the Dutch approach to the integration of migrants in the society is traditionally rather multicultural (originally it was aimed at favouring the so-called society's 'pillarisation'), as in the UK, starting from the end of nineties this model has began to be harshly criticised and eventually it was openly abandoned with the 2002 first *Balkenende* government, paving the way to a phase of increasing polarisation. Such a process may be deemed as being principally endogenous (i.e. originated within the Dutch society itself), but undoubtedly, as mentioned earlier, it was accelerated by the political response to the *Fortuyn* and *van Gogh* murders, as well as to the Madrid and London bombings. Therefore, as one can easily imagine, also in the Dutch case, anti-radicalisation policies are mainly addressed to communities of immigrants and second-generation citizens. Dutch scholars, on their side, have extensively investigated the roots of *intra moenia* extremism and examined post-9/11 national counterterrorism/radicalisation policies (see e.g. de Graaf 2010; Bakker and Veldhuis 2009; de Graaf and de Graaff 2008; Abels 2007; Pressman 2006), also from a sociological (Peters 2008a&b) and legal perspective (Oosterom-Staples 2008; den Boer 2007; Vervaele 2005).

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[197] For instance, the EU Strategy's motto: 'Prevent, Protect, Pursue, Respond', clearly resembles the British one: 'Pursue, Prevent, Protect, Prepare'.
[198] *Wet bestuurlijke maatregelen nationale veiligheid*, Bill No. 30.566.
[199] While the Lower House (*Tweede Kamer*) approved the bill more than three years ago (on 20 March 2007), the latter is still pending at the Senate (*Eerste Kamer*).

On the whole, the UK and the Netherlands also present some differences as for the way they have traditionally dealt with (internal) terrorism and radicalisation. Differences between the two countries are also reported in the current organisational development of their respective policing services (Jones et al. 2009). This suggests that context, local culture and domestic institutions continue to play a significant role on the way security policies are adopted and implemented at national level. For example, even though past experiences suggest that when it comes to tackle terrorism, both countries are willing to use extreme means and methods of fighting,[200] principally, the traditional Dutch approach includes more 'socially-inclusive' instruments (e.g. social, welfare and special integration programs for communities at risk), aimed at bringing back 'radicals' and 'extremists' into the society and separating hardliners from moderates. Such an approach also entails a police service strongly relied on at local level. In this context, normally police officers attempt to seek social consensus and compromise, being the Dutch police itself characterised by a decentralised decision-making process (van Buuren 2009, 32).

However, significant changes in police organisation and counter-terrorism policies are gradually mutating this scenario. On a general level, as Timmer points out, in the last 40 years, the rules of the Dutch police on the use of force 'have evolved from an implicitly legitimated law enforcement instrument, using violence if necessary, to powers embedded in international law as regards the professional deployment of violence for the effective preservation of law and order' (Timmer 2005, 519; see also Timmer 2007, 178). In the Netherlands, police service is becoming more centralised, also expanding its intelligence capacities towards involving a broader range of stakeholders, including community police officers. The latter risk being now seen as potential 'informants' of intelligence services and this could make them loose their traditional habitus of problem-solvers. In addition, this shift could generate some resistance by police and intelligence officers, fearing that a tougher approach could even produce negative effects on the diffusion of terrorism and radicalisation.

This kind of internal opposition might also occur with regard to the interception of migrants at sea. Media information for example reported harsh comments, doubts and deep regrets by the crews of the *Guardia di Finanza* and Coast Guard's patrol boats which returned more than 200 migrants to Libya on 8 May 2009 (Viviano 2009). Notably, during information talks held in Italy in Spring 2010,[201] it emerged that some resistance to the operations in question was clearly manifested within institutional circles by senior officers belonging to at least one of the Italian institutions in charge for enforcing the interceptions. Investigating this potential disagreement at the operational level has been indeed one of the objectives of this research.

Italian authorities began to intercept boat people in international waters and return them to Libya (aka the 'push-back' of migrants) in May 2009, following the establishment of closer links between the two countries. Although the operations in question were initially carried out by Italian forces only, boats are now intercepted by Libyan vessels in coordination with Italian authorities. Remarkably, the patrol boats used by the Libyans in these operations have been previously handed over by Italy to the Tripoli Government. In fact, notwithstanding they fly the Libyan flag, apparently they host an Italian observer on board. During 2009, Italian vessels carried out eleven interception operations (nine towards Libya and two towards Algeria), ended with the forced return of 834 and 51 migrants to the Libyan and the Algerian authorities, respectively (Ministry of Interior 2010). These operations have given rise to many complaints from opposition parties, civil society groups, NGOs and scholars from both the international and Italian legal community. Strong criticisms over the

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[200] See in particular the British anti-terrorism policies in Northern Ireland and the response by Dutch security forces to the so-called 'Moluccan actions' in the 1970s (see e.g. on the matter Janse 2005).
[201] Information talks with a senior judicial officer not included in the list of interviewees, Italy, Spring 2010.

forced return of migrants at sea have been also expressed by the United Nations,[202] the CoE CPT (Council of Europe – Committee on the Prevention of Torture)[203] and by some European institutions, as the statements by the former EC Vice-President Jacques Barrot on the matter[204] and the EC requests of information to the Italian government clearly highlight (ANSAmed 2009).

On a different level, the EU has been recently called into question for being involved in such operations. According to a Human Rights Watch Report (HRW 2009, 37), a FRONTEX[205] helicopter, based in Malta, in July 2009 coordinated a naval operation in the Mediterranean Sea that ended with the hand-over of migrants to the Libyan authorities. Conversely, during an interview with Dr Tondini, Mr Ilkka Laitinen – FRONTEX Executive Director – excluded any participation by the Agency in the intervention concerned (see the Appendices to the Report). Apart from the operation in question, it should be noted, however, that FRONTEX could soon play a role in the interception of migrants at sea. Indeed, a FRONTEX Draft Regulation has been recently presented by the European Commission to the Council (EC 2010). The Draft Regulation provides for a co-leading role of FRONTEX and EU participating states in the joint return operations and wider tasks in the cooperation with third countries. This would allow the Agency to fully participate (together with member states) in such interventions. In the past, also the FRONTEX vice-director, Gil Arias-Fernandez, has been in favour of interceptions (HRW 2009, 37). More in general, the role of FRONTEX in the deportation of irregular migrants to Libya has been recently addressed by the European Parliament. In its Resolution of 17 June 2010 on executions in Libya the Parliament 'Call[ed] on Member States that deport migrants to Libya, in cooperation with Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union), to stop doing so immediately where there is a serious risk that the person concerned would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment' (European Parliament 2010).

In light of such considerations, it seems reasonable to affirm that: a) both the forced return of migrants on the high seas and the anti-radicalisation/terrorism policies indicate a major shift in the national security policies adopted by the selected countries; b) the latter are among the best examples of EU member states using these kind of practices to foster public security; c) the practices concerned might entail/be the sign of, a major shift in the ethical values inspiring national security policies; and d) they tend to generate ethical dilemmas at the operational level to those who have to implement them.

2. Scope of Research

Under a pragmatic and bottom-up approach, the scope of this part of our research is that of carrying out an empirical study (i.e. based almost exclusively on fieldwork) assessing the shift in the ethical values inspiring security professionals' action in the implementation of new security practices in EU member states. An assessment of values in this field is rather innovative, whereas previous legal, political and economic studies have in practice only looked at the consequences of security officers' performance. Secondly, this research is also aimed at studying and assessing how such policies are de facto carried out (e.g. whether and how the reasons, principles and values which officially motivated their adoption are abided by and considered by those who must implement them). A further goal is

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[202] On 2 and 7 July 2009 the UNHCR sent two letters to the Italian Government, asking for explanations on the forced return of potential asylum seekers carried out by the Italian Navy on 1 July in international waters.
[203] The CPT sent a Mission to Italy on 27-31 July 2009, putting forward a number of questions to the Italian Government. The Italian responses to such queries have been recently published (see CPT 2010).
[204] See the letter written by Commissioner Barrot to the President of the European Parliament's Civil Liberties Committee, Lopez Aguilar in Offeddu 2009; and Phillips 2009.
[205] On the role of Frontex in the Mediterranean Sea see in particular Trevisanut 2008.

that of conducting a topical and rather innovative study, as the selected case studies are subject to continuous evolution and the research itself in practice provides a 'snapshot' of ongoing security practices, making the study absolutely original.

This study is also complementary to the existing research on security ethics as examined in the WP3 Literature Review. Past research has in fact principally focused on general questions such as, for example, the essence of professional values of police, military and intelligence officers on duty, when asked to confront upcoming threats to public security (see e.g. the 'ticking bomb' rationale to justify torture or inhuman/degrading treatments of suspect terrorists). However, the analysis of security ethics has been so far predominantly theoretical, not dealing with the concrete choices a civil servant must face 'on the spot'. In addition, reportedly, there is a research-gap in contemporary studies on 'whether security officers enjoy a special responsibility to act as "moral agents"' (van Buuren 2009, 99). No recent study has indeed taken into account the issue of security professionals' ethics in the implementation of new policies within this novel 'securitisation phase' at the European level. This also applies to the two selected case studies. On these grounds, this study intends to fill the existing lack of research – as evoked in the INEX Project Document itself – on the 'human and value-based consequences of policy decisions in the new security environment' (INEX 2008, 18).

Our research activities have included four countries: Italy, Netherlands, UK and Poland (Warsaw). Interviews have been limited to 48 officers. The latter have be chosen according to specific criteria (see Ch. VI, sec. 3) and on the basis of their relevance to the project objectives. Interviews have only involved practitioners. As mentioned previously, the research includes two case studies. Their analysis has been confined at national level, under a comparative perspective. The other leg of the research project concerned the European level. This study does not concern normative ethics (as included in codes). Ethics is basically seen as a systematic self-reflection on morality (see Ch. VII, sec. 2).

The main challenge faced by this study is related to the sensitivity of the selected case studies, especially with regard to the forced return of migrants at sea (see Ch. VI, sec. 3). This sometimes has led interviewees to give super-realist or 'politically-correct' answers, thus jeopardizing any attempt of a deeper insight into the topic. Although such problems are inherent of the research instrument chosen, an appropriate order/climax in the list of questions and the 'right approach' during interviews have mitigated the risk of receiving false/deceitful answers. All interviews have been very informative and have functioned for the deepening, analysis and verification of issues addressed in this study. Another problem has been occasionally that of using the right terminology, in order to 'bridge the academic gap' with interviewees. In this respect, a list of definitions, written in rather 'operational terms' has been included in the questionnaire (see Ch. VII, sec. 2) and explanations have been offered directly during interviews.

3. Research Hypothesis

The leading hypothesis of the INEX Project is that new security practices in European countries 'are driven by an implicit logic of ethical values' (INEX 2008, 8), which have strong repercussions on the creation of a nexus between the policies adopted to tackle external and internal security threats. In this respect, the INEX Project should initially identify and examine such ethical values and then make recommendations on how to increase the awareness of policy makers and scholars on the topic, in order to improve the efficiency and effectiveness of the security practices themselves. In view of that, as mentioned above, this research includes an analysis of the security professionals' (self-) conception of ethics in relation to their duties, as imposed by new security practices. In order to

address this issue, this research rests on a few assumptions, which mostly reflect the conclusions of the WP3 Literature Review (van Buuren 2009, 98):

a) the shift in ethical values at the supranational, political and strategic level has to be assimilated and transferred at the operational level;

b) the role of leadership in security organisations is crucial in orientating the professional ethics of subordinates;

c) this shift in ethical values might create dilemmas to security professionals;

d) the latter can rely on their professionals ethics and moral beliefs in order to address such dilemmas;

e) following the adoption of new security practices, the space for discretionary choice of security professionals may increase or otherwise shrink;

f) addressing a *de facto* shift on the ethical plane is more important than reflecting on official organisational values or existing codes of conduct.

Based on these assumptions, the leading hypothesis underlying this leg of our research is that the ethical values which stand at the origin of this securitisation phase in the national security policies of EU countries could partially differ from those of the security professionals called to implement them. According to this idea, the policies in question would not be simply accepted and carried out *de plano* by security professionals, but their action would be crucial in implementing them. In deciding *how* to execute the norms adopted or the directives received, security professionals rely on their conception of professional ethics and personal moral beliefs. Comments received during interviews have definitely upheld this initial postulation.

In this context, the study has tried to answer the following two main research questions:

1. Do security organisations/professionals and their supervisors deem that ethical values are subject to transformation due to the general shift in the security paradigm that has occurred in the last years?

2. What is the security professionals' opinion of the ethical and moral principles governing their job in light of the selected security policies?

The first research question can be subdivided in turn into four sub-questions:

1.a What are the fundamental ethical values of security professionals according to their opinion?

1.b Has this alleged shift in the security policies of European States had practical consequences on the duties of security professionals?

1.c Has the security professionals' ethics changed as a result of such a major shift? Has it changed as a consequence of the increasing use of ICT? How?

1.d What is the response of organisational leadership to the adoption of these new security practices?

Other sub-questions can be drawn from the second research question:

2.a   Do security professionals try to follow their professional ethics in performing their duties?

2.b   Do they think that directives conform to their professional ethics/ethical values?

2.c   Is it possible to foresee an ethical 'state of exception' or anyway derogations from 'ordinary' professional ethics? Are such derogations a sign that we are moving towards a permanent state of crisis?

2.d   Can security professionals derogate from/reinterpret the directives received according to their professional ethics/ethical values? Is there room in their respective organisations to discuss potential 'reinterpretations'?

VI.   *Methodology*

1. **Research Methods**

This part of our research has developed into several phases, mirroring those provided for in the INEX Project Document. In the first phase of activities (September – October 2009), it was carried out an initial background analysis, aimed at highlighting problems, lines of action and expected results for each of the selected case-studies, together with a provisional timeline of activities. Given some previous research on the topic, it was easier to realise this in the British context – but it required a more in depth analysis on the Dutch scenario and the anti-immigration operations in the Mediterranean Sea. Nevertheless, information gathering and analysis of relevant issues have been constant during entire research period.

Central at this stage was conducting a background analysis and setting out the study. A project proposal was submitted for approval to the WP3 Supervisor in mid-October 2009 and then presented and discussed on 29 October 2009 at the INEX Mid-Term Conference in Brussels. Immediately after (November 2009) a rather structured questionnaire (see in the Appendices to this Report) was drafted and circulated among other scholars for comments.[206] As a result of such a 'peer review' process, the draft questionnaire was slightly amended and then officially submitted for approval to the WP3 Supervisor. The so-called 'empirical segment' was then ready to begin.

In the course of this second phase – which lasted until late May 2010[207] – we conducted 47 interviews in person in four EU countries (Netherlands, UK, Italy and Poland-Warsaw),[208] on the basis of their relevance for the selected case studies. Several other 'security professionals' (about ten) and four academics have been consulted during informal meetings as experts on the selected research topics. During this period, we also gained expertise on the issue of anti-immigration operations at sea and presented a legal paper (see *infra* Record of Activities) on the matter at an international research seminar in late January 2010. The WP3 Supervisor has been regularly briefed on the status of research through concise and informal presentations at team meetings. Besides, a summary of provisional results was presented at the INEX Conference in Amsterdam on 15-16 April 2010 and then submitted to the INEX Project Coordinator. Fieldwork has been based on structured interviews,

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[206] Some valuable assistance was provided, *inter alia*, by Dr. Zeger Van der Wal (Department of Governance Studies, VU University Amsterdam).
[207] One interview took place in late July 2010.
[208] To be specific, one interview took place in Belgium (Brussels) but involved a Dutch senior police officer.

modelled around a standard questionnaire. In almost the totality of cases, interviewees received a copy of their questionnaires or a transcript of the parts of their interviews which were relevant for our study (see *infra* sec. 2).

The third and last stage of activities (June – September 2010) encompassed both the 'interpretive' and the 'conceptualisation' segments, being dedicated to the examination of data and information, as well as to the drafting of the present Report. Analysis has been mainly qualitative, but some quantitative assessment has been provided in relation to several questions included in the questionnaire (see Ch. VIII). The drafting process has been articulated following a detailed internal work plan, agreed among the team members.

2. Literature and other Sources of Information

As mentioned earlier, the idea of an empirical research based on the shift in the ethical aspects of EU member states' security policies lies in the overall lack of academic literature on the matter. This was clearly confirmed by the detailed state-of-art literature review on 'security ethics' (van Buuren 2009) produced by the INEX WP3 during its first year of activity. The latter study may be seen as the main theoretical base for the initial background analysis. Other readings have been also rather significant in developing a clearer idea of the issues and dilemmas at stake.

On a general level, inspiring have been the works of Den Boer & Kolthoff 2010, Burgess 2009a&b; Manners 2008; Hyde-Price 2008; C.A.S.E. Collective 2006; Huysmans 1998. Essential was also taking into account the literature on the existence of an internal-external nexus in European security policies, which represents the cornerstone of the whole INEX Project. See, for instance, Eriksson and Rhinard 2009; Pawlak 2009; Rees 2008; Anderson 2007; Duke and Ojanen 2006; Lutterbeck 2005; Anderson et al. 2003 (see the 5th Chapter: 'The Merging of Internal and External Security', at 156-180); Grabbe 2003; Bigo 2000, 2001, 2006. The initial background study also benefited from more recent and critical remarks on the nexus in question, such as those of McCulloch and Pickering 2009; Weiss and Dalferth 2009; Lavenex and Wichman 2009; and Mounier 2009; together with Youngs 2004. With regard to the literature on security ethics, it can be subdivided on the basis of the category of personnel it refers to. As for the police for instance, one can cite Nickels and Verma 2008; Das et al. 2007; Zedner 2007; Miller et al. 2006; Westmarland 2005; Miller and Blackler 2005; Loader 2002; Crank and Caldero, 2000; Kleinig 1996; Felkenes 1984. In particular, the articles by Nickels and Verma, Westmarland and Felkenes have been central in drafting the questionnaire, since they are based on empirical analysis of data gathered from interviews and include practical examples of questionnaires on the ethical dynamics of policing. Further studies have concerned ethics in the military domain. Although there is a large number of – mostly 'US-centred' – publications in this field, one can mention the recent works of Carrick et al. 2009; van Baarda and Verweij 2009; Robinson et al. 2008; Robinson 2007; as well as Burke 2005 (on the use of military power in international relations); Miller 2004 and Aronovitch 2001. Ultimately, concerning the rather appealing theme of ethics within intelligence services, convincing have been the articles and chapters of Omand 2008; Quinlan 2007; Caparini 2007; Müller-Wille 2006; Patterson and Casale 2005; Gendron 2005; Pfaff and Tiel 2004; and Erskine 2004. Very interesting as well has been the 2005 Handbook on Intelligence Services by Born and Leigh (see the part on the professional codes of ethics for intelligence services at pp. 47 ff.).

Although the aforesaid literature has in a way influenced the empirical part of this research, the latter has almost totally relied on a full questionnaire submitted to the chosen interviewees (see in the Appendices to this Report). Normally, people interviewed were asked to fill in the questionnaire in our researcher's presence, so that each question could be explained and then commented

together with the author. Only one questionnaire was submitted and returned by email. E-copies of questionnaires, as compiled by respondents, have been returned to them by email. Filling the questionnaire in our researcher's presence also allowed note-taking and, more in general, gave him the possibility to interact with officers, raising and addressing additional questions, dilemmas and uncertainties. Without any doubt, the most interesting part of the empirical research consisted in this interaction with interviewees. The questionnaire is a 23 page document, containing 41 different questions. Depending on the case study concerned, each interview has encompassed either 26 or 27 queries. The document also includes an introductory part, comprising a brief description of the INEX Project and the main terms and concepts used during the interview, a privacy statement (detailing the use of information and the conditions of anonymity for interviewees), and a short contact details form. Queries are divided into a general section and two additional sections specifically referred to the selected case studies.

The first part contains more general questions on: a) the ethical values of security professionals; b) the need for such professionals to refer to their personal/professional ethics in the course of their duty; c) their overall opinion on the consequences of this asserted shift in the security practices at European and national level. The remaining two sections are explicitly dedicated to the selected case-studies and are to be compiled alternatively by interviewees, depending on their background and expertise. The aim of such sections is that of assessing the interviewees' opinion on this asserted ethical shift on a more specific level, as it results from the adoption of the policies concerned and then addressing their response, according to their professional ethics and personal beliefs. During the survey, the questionnaire has been just very slightly amended, and almost only in the introduction, in order to better adapt to the specific circumstances of the case.[209] Questions in Section 2 and 3 have been drafted similarly, so that the basic queries addressed to interviewees have been essentially the same, irrespective of the specific case study (see e.g. policy objectives and interests of opponents in **Q 2.1**, **2.3**, **3.1**, **3.3**). This has allowed extensive cross referencing and has facilitated the examination of results. To the same aim, similarities are also present between the first section and the following ones (see e.g. the organisational internal debate at **Q 1.12**, **2.9** and **3.9**).

The questionnaire contains both multiple choice questions (15 out of 41) and open answer questions. Each multiple choice question is nevertheless followed by an open answer question in which interviewees have room to discuss their previous answer or add particulars and options not included in the boxes. The use of multiple choice questions has been useful in trying to standardise results, given the often diverse professional background of interviewees. In addition, this mix of open and standardised answers has helped in developing both a qualitative and a quantitative analysis of results. It has also had the merit of making interviewees (most of whom were more concerned with operational tasks and not always used to be involved in academic research) focus on the specific topic of questions – without losing themselves in deviations and extensive digressions – but also granting them the possibility to express their ideas and opinions, and even challenge the questions themselves. On the whole, the main objective of interviews has been that of gathering empirical data on the officers' view and reaction to the implementation of new security practices in light of their professional ethics and personal beliefs. Remarkably, this research is not intended in any way to map violations of professional ethics by the interviewees.

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[209] For instance, the Questionnaire's original version referred to 'the forced returns of migrants at sea' as the first case study, while in the latest version this expression was changed into 'rescue/naval constabulary/border control operations in the Mediterranean sea – involving boat people'. Only in one case, a question was slightly amended in the course of interviews. Query No. 2.12, on the attempts made by the EU to establish permanent relationships with Libya, was framed as follows: 'Will this policy be helpful in settling possible ethical dilemmas generated by the forced return of immigrants to Libya?'. This query then turned into: 'Will this policy be essential in meeting the aims and objectives of the mission?'.

3. Selection of Respondents

Interviewees have been cherry-picked on the basis of their experience and expertise. All the respondents play (or have played) a significant a part in the adoption, dissemination, implementation and/or enforcement of new security practices relating to the chosen case studies, or otherwise they have participated/contributed to the public debate on such topics as a consequence of their position/profession. Interviewed officers mostly belong to the operational level of their respective institution. Some of them serve as policy advisors. However, senior level officers (sometimes, even top-level officers, as in the case of FRONTEX Executive Director, EUROPOL Deputy Director, the former Commander in Chief of the *Koninklijke Marechaussee* and the current Director of Operations of the same institutions) and tactical level officers have been also involved, in order to broaden the spectrum of respondents, secure participation at all levels and obtain more comprehensive results. Due to the relative sensitivity of selected case studies – especially the one on the forced return of migrants on the high seas – the selection of respondents was not always easy. In several occasions, also anonymous quotations had to be gathered from verified transcripts of interviews. Once again this confirms the importance of studies on the ethical aspects of security policies.

On the whole, 129 natural and legal persons have been contacted. Initial contacts eventually led to 48 interviews (47 in person and one through email). In total, 37 questionnaires were collected. Some interviewees in fact preferred to have an open talk rather that filling the questionnaire out. Sometimes, opting for a non structured set of questions was also a matter of time, since interviews normally took up to two hours time. In the latter case, however, the main questions posed to interviewees reflected those included in the questionnaire and answers were recorded in notes taken on the spot. The majority of interviews (29) have been conducted in the Netherlands. They involved nine police officers, four military police officers, three military officers, three intelligence officers, one municipal officer, three officials from the Ministry of Interior and six from the Ministry of Justice.

Table VI.1: Categories of security professionals interviewed in the Netherlands

- □ Police
- □ Mil. Police
- □ Military
- □ Intelligence
- □ Municipal
- □ Min. Interior
- □ Min. Justice
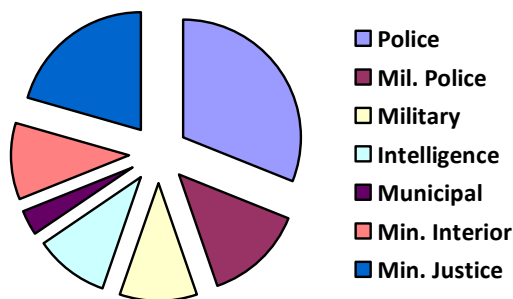
In the UK, our researcher interviewed seven officers (six of whom in person). Six are involved in the 'Preventing Violent Extremism' (PVE) Programme in Edinburgh and Birmingham (as a part of the British Counter-Terrorism Strategy – CONTEST): four are police officers, one is a municipal officers and one a government officer. A month later, we interviewed in person a senior police officer belonging to the SO 15 – Counter-Terrorism Command of the London Metropolitan Police. Interviews in Italy were held in Rome, Milan and Siracusa and mostly involved magistrates, i.e. two senior prosecutors and a deputy prosecutor. This is not surprising, given the full autonomy and independence enjoyed by the *Magistratura* in Italy. Such a characteristic has probably favoured their participation. Really significant was nonetheless the collaboration offered by the Ministry of Interior – Directorate for Immigration and Border Police, which authorised a senior officer to attend the interview. Interviews in Italy also included a senior humanitarian officer belonging to an important

Italian NGO working in Libya and having close contacts with intercepted migrants. Notably, several other interview requests were initially submitted to the Italian institutions which have been so far directly or indirectly involved in the forced return of migrants at sea, being eventually rejected.[210] Finally, in May 2010, our researcher visited FRONTEX HQ in Warsaw, carrying out seven interviews, including one with the Agency's Executive Director, Mr Ilkka Laitinen (included in the Appendices to this Report). In sum, therefore, we interviewed 15 police officers, three military officers, three intelligence officers, four military police officers, two municipal officers, three prosecutors, three officials from the Ministry of Interior, six from the Ministry of Justice, one government officer, seven EU officers and one humanitarian officer.

Table VI.2: Categories of security professionals interviewed on the whole

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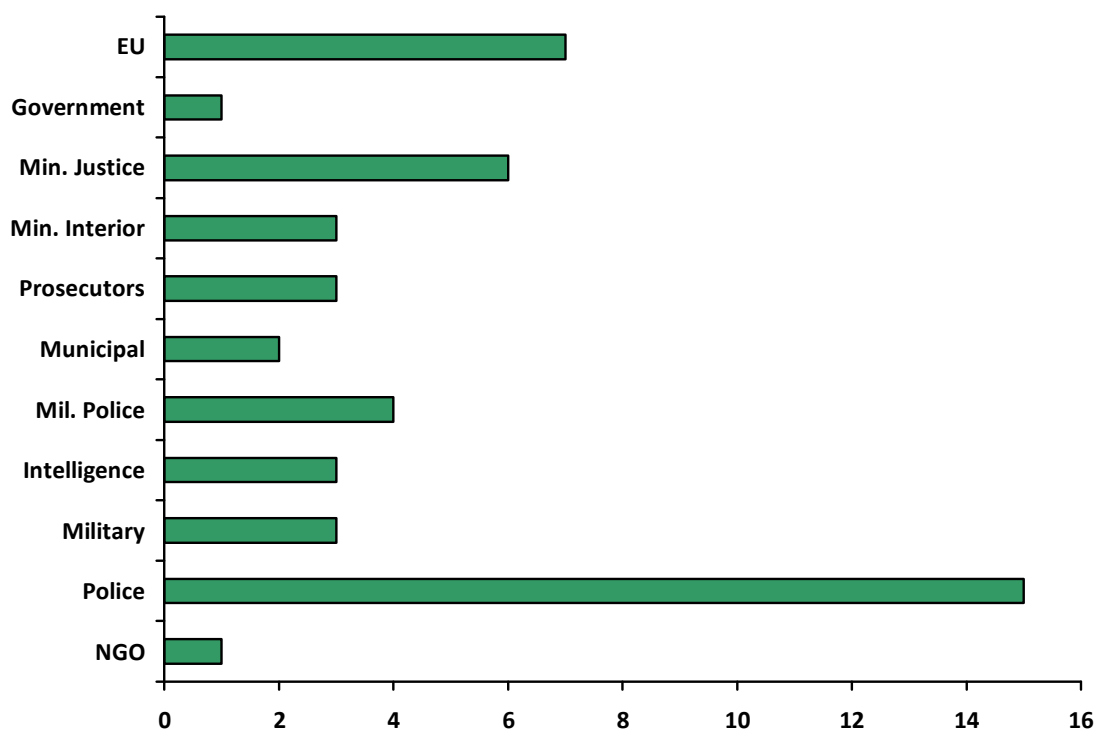
[210] Interview requests were explicitly rejected – on different grounds – by the Coast Guard, the *Guardia di Finanza*, the Navy, the Intelligence Services and another directorate of the Ministry of Interior. In the Netherlands the only explicit rejection received in the course of interviews concerned one official from the Ministry of Defence who was denied authorisation by her/his management. Explicit rejections have were also received from two British police forces.

Table VI.3: Interviews by country

- Netherlands
- United Kingdom
- Italy
- Poland/Warsaw
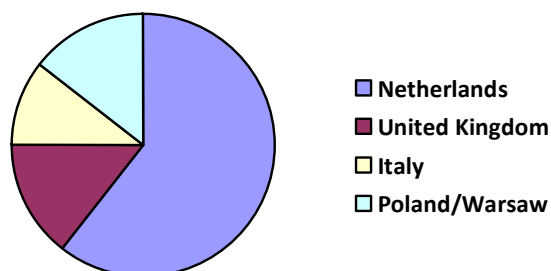
4. Criteria for Judging Results Arriving at Recommendations

This study may be conceived as 'problem-driven'. The choice of method (selection of respondents, questionnaire, interviews, analysis and conceptualisation) is indeed driven by a number of initial substantive problems and a few specific research questions. The identification of problems originates from the WP3 2009 Literature Review (van Buuren 2009) and the author's experience/expertise on the selected case studies. Conceptualisation and evaluation have come at the end of a largely qualitative analysis of information and data submitted via the questionnaires and during interviews. Some limited quantitative analysis has been possible due to the use of standardised multiple choice questions. In the latter case, only basic descriptive statistics has been applied to judge results, leaving apart any inferential statistics for the lack of a credible sample (people interviewed do not certainly represent a balanced sample of European 'security professionals' – not even in their field of expertise). On the other hand, given the predominantly qualitative assessment as well as the study's nature and specific features, the author opted to concentrate on the 'trustworthiness', rather than on the 'validity' of his research. Evaluative criteria for qualitative research have therefore been deduced from the classic Lincoln and Guba's theory (1985). As it is widely known, the latter relies on four distinct principles: *a)* credibility; *b)* transferability; *c)* dependability; *d)* confirmability/verifiability.

Concerning *a)* the credibility of results, it may be noted that the author spent several months 'on field' in order to understand the phenomena of interest, also speaking with a wide range of officers and sometimes developing close links with them. This has facilitated mutual understanding and construction of meaning between the author and the officers. Research and observation of facts have been persistent, having the author taken into account any relevant development, even on the legal side. The number of answers and the extensive cross-referencing have made it possible to identify the most recurring characteristics and elements which are applicable to the problems raised at the beginning of the study. The heterogeneity of interviewees has also facilitated the triangulation of results, so that it has been possible to assess results across different categories of security professionals in different case studies. The presentation of a research project proposal and some preliminary results at two international conferences (Brussels, October 2009 and Amsterdam, April 2010) helped in testing problems, data, information, interpretations and provisional outcomes with members of both the INEX community and those from whom information and data were originally obtained, i.e. the security professionals themselves (several of our interviewees in fact attended the April 2010 INEX Conference). Nevertheless, *b)* transferability of results would be theoretically possible, due to the detailed description (when possible and according to our rules on confidentiality) of field experiences. The latter have made clear the context in which the study has taken place. Besides, the two case studies have been selected for being examples of a major security shift in the domestic policies of EU countries, but in principle the rationale of this research could apply to other security policies in the same or in other European states. In addition, sometimes the answers

received have been categorised according to the standard philosophical concepts of ethics, as illustrated in the WP3 Literature Review (e.g. realism, utilitarianism, idealism, consequentialism, 'shared expectations' theory, etc.).

The attention paid to establish close contacts with a number of interviewees (trying to identify oneself with the interviewees' state of mind as much as possible), the acknowledgement of any significant development and change in the context of the two case studies has led to consistent (i.e. *c)* dependant) findings. Remarkably, however, up until the submission to the European Commission, the study has not passed through any external audit. The full *d)* verifiability of results will then be possible at a later stage, once the present Report will be officially released. At present, the absence of similar studies concerning this assumed shift on the ethical plane makes a comparison difficult. Nonetheless, in trying to enhance the verifiability of findings, each part of this study has been shared and results discussed with the WP3 Supervisor and other colleagues. This has favoured complementary but also different understandings and sometimes open challenges, which led in turn to amendments and corrections. Recommendations have directly stemmed from the assessment of results, being basically a logical partition of the study's conclusion.

5. Confidentiality, Anonymity and Coding

The sensitivity of issues dealt with in our research has imposed since the beginning strict rules on the anonymity of interviewees and on the use of information and data. Such rules have been summarised in a privacy statement, contained in the questionnaire's introductive part. All but the interviewees who remained anonymous have signed the questionnaire and have consented to their names and affiliation to be reported in the attached List of Interviewees. All the information and data gathered in the course of interviews have been treated as confidential, provided that they have been collected and used only for academic research purposes. Questionnaires have been stored in order to prevent any loss, misuse or alteration. To date only Dr Tondini has had access to the information and data provided with the questionnaires. The latter are not due to be passed on to third parties for any reason.

With the aim of guaranteeing and protecting the anonymity of interviewees, information and data have been processed and reported in a way which prevents them from being personally identified in this Report. Accordingly, the enclosed List of Interviewees in fact only contains their name and affiliation. However, names or affiliations never appear in any part of the text of this Report, nor will they be associated to opinions, comments, information and data reported in whatsoever future document, unless agreed otherwise (e.g. Mr Laitinen kindly agreed to be quoted – see the transcript of his interview in the Appendices to this Report). A number of interviewees remained totally anonymous, due to specific requests or strict organisational policies regulating interviews with external entities (see for instance those conducted at FRONTEX HQ and at the DSI). Here names of interviewees have been replaced by the term 'Anonym' or 'FRONTEX officer', followed by a number in series. As a consequence, affiliation has been only generically reported to prevent interviewees to be identified through their position within their organisation. Anonymous interviews have not affected the above-mentioned duties of confidentiality, which therefore remain applicable.

VII. Collected Data

1. Introduction

This section contains the most significant data obtained through 48 interviews. 37 of them were based on a standard questionnaire (see the Appendices to the Report), containing both multiple choice questions (15 out of 41) and open answer questions (26 out of 41 – see Ch. VI). Not all the interviewees filled out the questionnaire entirely (although the vast majority did so). The remaining 11 interviews were held without filling out the questionnaire, being nevertheless based on its substance. Collected data therefore comprise both statistics (derived from a basic quantitative evaluation) and conceptual categories gathered from a qualitative assessment of single interviews. Several data are presented in tables. Additional quotations and comments made by the respondents during interviews are included in the Research Results (see Ch. VIII). Since interviewees did not answer the same queries, nor the same amount of queries, the number of respondents to each question may differ. The way data are collected and presented reflects the objectives of this study, as developed in research questions and sub-questions (see Ch. V). Much attention is thus dedicated to assess the presupposed shift in the ethical values underlying the implementation of new security practices by security professionals.

2. Definitions

For the purpose of this research '*security professionals*' are considered state officers who have a part in the adoption, dissemination, implementation and enforcement of new security practices, as well as participate in the debate on legal and ethical issues related to the same practices. Belong to this category: a) military, police, intelligence officers, and their instructors/trainers; b) prosecutors, judges, state lawyers; and c) officials from the Ministries of Justice, Interior, Defence, and Foreign Affairs. In one case, the meaning of this term has been stretched till the point of encompassing a project manager of an Italian NGO working in Libya. However, this has to be seen as an exception due to his particular duties and tasks regarding the situation of intercepted migrants once returned ashore.

'*Security practices*' comprise norms, policies and measures whose adoption or implementation is directly or indirectly aimed or oriented at strengthen public security by tackling perceived threats to the public order or the free enjoyment of people's fundamental human rights – *in primis*, the right to life and physical integrity (e.g. laws, regulations and administrative measures to tackle terrorism, extremism, illegal-migration, organised crime, financial frauds, violations to individual privacy, etc.; directives issued by the police authorities or by the Ministry of Interior for public order purposes, etc.).

'*Professional ethics*' is conceived as a (often codified) set of guiding principles and norms a professional has to abide by and apply in the exercise of a duty, a service, or otherwise in carrying out an assignment (adapted from Burgess 2009b, 314). In light of this, a security professionals' *code of ethics* may be defined as an official set of standards that should characterise their membership, role, tasks and performance and that would therefore influence their provision of goods or services to the public (adapted from Kleinig 1996, 234). *Ethics* is then generally seen as the reflection on morality. For a professional, it presupposes the possibility to choose between alternative courses of action, according to his/her moral values. In the absence of a choice, and thus when his/her behaviour is totally predetermined, any practical analysis on ethics or morality is precluded (Hyde-Price 2008, 37). However, it must be noted that even when a security professional is duty-bound to execute a directive or to implement a law according to its original wording and meaning, he/she does not cease to act as a 'moral agent', as long as he/she reflects on the morality or on the ethical

repercussions of his/her conduct. In this respect, *values* are qualities and standards which influence the security professionals' choice of action. Accordingly, *morality* is a complex set of values and principles providing a framework of reference for the security professionals' ethical action. The security professionals' *integrity* will then reflect their choice of acting in accordance with relevant socially-accepted values, norms, and rules.[211]

3. Case Studies

Data are divided according to the three sections of the questionnaire (see Ch. VI). In the first part of the following paragraph, data collected are related to all the interviewees, while the subsequent two parts (i.e. those concerning data gathered from Section 2 and Section 3 of the questionnaire) mirror the partition between the respondents on the basis of their experience and expertise. Only one respondent answered simultaneously to Section 2 and Section 3 of the questionnaire. For all the other interviewees, the two sections were mutually exclusive.

4. Data

a. Section 1

The first question (**Q 1.1**) concerned the respondents' obligation to follow a code of ethics, discipline or conduct in performing their duties. Almost the totality of interviewees (46 out of 48) affirmed to be bound to at least one set of codified ethical norms. It has also to be noted that sometimes these codes contain additional deontological duties for different categories of officers, depending on their position within the organisation's hierarchy. In practice, the higher their position is, the more values they are duty-bound to respect. This happens, in particular, in Dutch institutions. In other cases, officers who are seconded from another organisation maintain their code of ethics but are also bound to the one in force in the institution of secondment (see e.g. the case of police officers seconded to anti-radicalisation/terrorism bodies in the UK). Sometimes, as for the Italian magistrates, a code of discipline – including negative attitudes and behaviours – is placed side by side to a code of ethics containing positive deontological obligations developed by a professional body which is formally external to the organisation (i.e. the National Association of Magistrates).

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[211] The definitions of 'values', 'morality' and 'integrity' are those in use at the VU University Amsterdam – Department of Governance Studies. They are gathered by the studies of Prof. Leo Huberts (see e.g. Huberts 1997) and Dr Zeger Van der Wal (Van der Wal 2008). Further definitions, included in the questionnaire, are largely drawn from Dr Van der Wal's study. Some of the questions also reflect those contained in the questionnaire he used during his fieldwork activities.

In **Q 1.2** officers were asked to rank a list of ethical values, depending on the latter's importance in performing their duties. Interviewees were invited to give a grade from one (irrelevant) to five (essential) to each of the values contained in a standard list. Values received the following marks:

Table VII.1: Relevant values in the work of security professionals

Values	Total Marks
Integrity	183
Honesty	179
Accountability	172
Reliability	170
Expertise	170
Impartiality	156
Transparency	153
Humanity	148
Courage	145
Obedience	142
Social Justice	138
Efficiency	137

In **Q 1.3**, when asked to add other values to those mentioned in the previous question, interviewees often repeated more or less values which were already reported in the list. Some of the respondents focused on the need to perform with equity/equality and independence. However, it also emerged from the answers the officers' willingness of being aware of the consequences of their professional activity. Several interviewees mentioned the need to set a positive example for society, taking into account different stakeholders and being flexible in order to address people's requests. In their opinion, this would make public trust and confidence in the organisation grow. Whilst the 'external confidence' in the organisation looks thus important for them, other officers also cited *their* loyalty and trust in their organisation as important professional values. Nonetheless, according to other respondents, their job is aimed at promoting a democratic legal order while fostering fundamental human rights and liberties.

In **Q 1.4** officers were requested to specify which of the values contained in the standard list they were given in the first question were also embodied in their code of ethics/discipline/conduct. They answered as follows:

Table VII.2: Values contained in the interviewees' code of ethics/discipline/conduct

Values	Hits
Integrity	32
Accountability	28
Transparency	25
Reliability	23
Impartiality	21
Honesty	21
Expertise	20
Obedience	18
Humanity	15
Efficiency	13
Social Justice	11
Courage	9

Q 1.5 concerned the values in respect of which the interviewees' organisation has become more demanding in the last ten years. Selected values are reported in the list below

Table VII.3: Shift in professional values in the last ten years

Values	Hits
Efficiency	25
Integrity	25
Accountability	24
Transparency	23
Social Justice	11
Expertise	10
Reliability	10
Honesty	9
Obedience	8
Impartiality	6
Humanity	4
Courage	3

Q 1.6 offered the chance to interviewees to add other values not included in the list. The vast majority (30 out of 44) answered that the list was indeed exhaustive. Others mentioned the value of 'effectiveness'. One respondent answered 'equality' (in between impartiality and social justice). Another group referred to the need to understand and open the organisation to the public and other stakeholders, taking into account the 'equality and diversity' of people, with a view to promoting human rights. Some interviewees mentioned 'independence' (from other state institutions), 'discretion' (as inspired by the national tradition), 'self-responsibility'. Only two respondents cited 'accuracy' and 'authority' as key values.

Q 1.7 dealt with the reasons at the basis of this particular attention paid by organisations on such values. Several interviewees affirmed that this shift was mostly due to 'misbehaviours' or 'misconducts' occurred in the past, which were amplified by media and eventually had harsh political repercussions due to the reaction of the public. Being under strong political pressure (which sometimes generated tensions) organisations had therefore to refocus on specific internal policies and values. Dutch respondents occasionally emphasised that the political directives they receive are now openly aimed at achieving 'social cohesion'. According to the respondents belonging to this first group, in the last 10 years civil society has started to scrutinise the work of 'security professionals' (mostly the police) in more detail. Their performance is now sometimes assessed according to specific indicators. In this respect, one officer underlined that nowadays people are for example rather interested in migration issues.

This scenario was more or less portrayed by 21 interviewees out of 41. Others (five officers) referred to the financial crisis and consequent budget cuts, which has led organisations to improve their efficiency. A number of officers (nine) conversely highlighted a kind of 'internal push' of their organisations – independent from external factors – towards an increased professionalisation of services. In their opinion, this is due in turn to the bigger role played by their organisations in social life and thus to the need to be an example for society itself. In other words it is the nature itself of their job to require more attention on certain values. To them, professionalisation sometimes includes the need to be more visible, accessible and transparent, in order to show in practical terms that organisations are also accountable to the public (also by legal means). Equality and diversity thus become values to be acknowledged and pursued. Six interviewees did not answer the question. Some of them argued that there has not been a significant change of focus of their organisation on specific values in recent times.

In **Q 1.8** officers were asked about the usefulness of professional ethics in their job. The totality of respondents (37 officers) answered positively. A first group (13 interviewees) stated that professional ethics sets out the standards by which officers carry out their tasks or take decisions, also helping in clarifying the organisation's focus and establishing a clear basis for the accountability of personnel to the public. A second group (11 people) adopted a more pragmatic approach, answering positively but without commenting (three officers) or simply saying that professional ethics: is important 'because of the potential interest of the media' in their job; is 'a part of their job'; is 'embedded in the law they have to abide by'; is 'a part of their training'; or must be respected because they are state officers. A few respondents (three) resulted even more sceptical. Whilst they mostly defined professional ethics as 'essential', they also declared that a written code is ineffective, being only a mere point of reference. A fourth group (10 interviewees) referred instead to the sensitive nature of their job, which would impose relying on strong professional ethics. Along with that, they mentioned the importance of ethics: 'for teambuilding'; in dealing with state secrets and intelligence information; in performing well, and also with humanity; in 'meeting the aims taking into account the means'; in communicating with the public; and in spending or allocating tax money.

Q 1.9 was similar to the previous question. It alluded to the influence of personal moral beliefs on the interviewees' professional activities. Only a minority of respondents (eight out of 37) replied negatively. The latter mentioned their duty to follow the directives issued by superiors or the law in force, as well as the need to perform 'in a professional capacity', avoiding 'personal approaches'. One interviewee even said that his code of discipline would forbid relying on personal moral beliefs on service. Among those who responded positively, the 'pragmatists' were the majority (19 interviewees). Six of them answered without commenting, whilst others stated that 'it is impossible to leave personal moral beliefs at home', or simply that 'they are a part of what you are' and they are 'important' in their day-by-day job. A few members of this group also affirmed that: their beliefs are totally 'ethically-led'; they have the same beliefs of other citizens; and that 'protecting their men' is a part of their beliefs. Only two officers belonging to this group mentioned religious principles and values. A second group (eight security professionals) encompassed 'the critics', i.e. those who admitted that their personal moral beliefs have a part in their job but sometimes they have to deviate from them in order to follow directives and be conformists. They maintained however that there is a limit to what is acceptable for them. Ultimately, only two respondents declared that the need to rely on their personal moral beliefs is due to the particular nature of their job, which requires dealing with security issues but also with questions of race, faith and culture.

The following query, **Q 1.10**, dealt with possible conflicts between the ethical values promoted by the interviewees' organisations and the latter's activities. Here answers resulted more fragmented. 16 officers denied the existence of any ethical conflict. Nine of them did not comment their answers. The others affirmed that: their job is 'by definition founded on ethical values'; there is no conflict on 'the essential principles' of their activity; the nature of their tasks do not allow them to reflect on potential conflicts while they are on service; and that the directives they receive are totally ethical, even though at first sight they could appear unethical to people who don't know their job. The majority of respondents (22 out of 38) reported the existence of conflicts. Six did not add any further comment, apart from highlighting the frequency of such tensions. Conversely, nine officers imputed the conflicts concerned to their organisation or to the legislative framework regulating their tasks. In particular, according to them, this lack of professional ethics by their organisation is due to: the political influence over their job; the explicit request to produce and show results in the short run, despite long-term consequences; the absence of meritocracy; the tension between the duty of loyalty to the organisation and their personal integrity; and to the organisation's interests as opposed to the interests of the people. The remaining seven interviewees instead ascribed conflicts to the particular tasks they are entrusted with. They cited in particular: the removal and repatriation of illegal immigrants; the difficulty in remaining secular and apolitical in cases involving religion and national security; and the tension between counter-terrorism and human rights as well as between intelligence and evidence.

The answers given by the interviewees to the query on the potential clash between their moral beliefs and their organisations' activities (**Q 1.11**) are even more fragmented. 16 respondents indicated the absence of any conflict, although one affirmed that sometimes '(s)he grapples to his/her moral conscience to ensure that (s)he is doing a good job'. On the contrary, the majority of interviewees (21 officers) indicated the existence of tensions, although only a few of them (six) stated that such tensions are frequent. However, when asked to comment their affirmative answers, their opinions were rather dissimilar. 12 did not comment at all. The others mostly relied on the specific tasks of their job, and thus on: (again) political influence and correctness; length of detention for irregular migrants; the clash between the collection of evidence and intelligence; and counter-terrorism legislation. Two referred to the role of their organisation's leadership. However, one affirmed that although at the top of an organisation it is normal to have moral dilemmas, the latter are then discussed and resolved within the organisation itself. Conversely, the other one highlighted

that leaders sometimes do not adhere to the rules which they themselves issue and promote, also lowering the standards of quality through new ineffective procedures.

The last query of the first section (**Q 1.12**) concerned the possibility to discuss the conflicts mentioned in the previous two questions with the interviewees' leadership. Only four respondents answered 'no'. Three of them represent those who lamented neither ethical, nor moral tensions in their organisation's activities. Conversely, one said frankly that in truth his/her work environment does not admit divergent opinions, as one would run the risk to be considered as non-conformist. The vast majority of interviewees (31 out of 35) answered positively. Notably, the bulk of them (13 officers) affirmed to work in a transparent organisation and in a rather open environment, demonstrating a strong confidence in their organisation on this aspect. In their opinion, internal and inter-agency dialogue facilitates their job and motivates personnel. Seven officers did not comment their answer. Seven interviewees opted instead for more 'moderate' answers. Four of them argued that this kind of internal dialogue is possible with their first superior in line or only before operating. The remaining three declared that: dialogue is useful in avoiding conflicts; in case of problems they can abstain from dealing with a specific issue; and that policies they have to implement allow derogations, feedback and discussion with their management. Ultimately, four officers were more cautious, and contended that although their organisation tolerates moderate criticisms, one should be careful in expressing dissent, as the organisation's leaderships often tend to be more 'loyalist' to the political sphere.

b. Section 2

The first query of the second section (**Q 2.1**) looked at the policy objectives of interceptions of migrants in the Mediterranean Sea. Officers answered as follows:

Table VII.4: Policy objectives of interceptions

Policy Objectives	Hits
Preventing the arrival of uncontrolled migration flows to the Italian/European coasts	11
Fighting the smuggling of migrants	9
Fighting human trafficking	8
Preventing the economic breakdown and the uncontrolled social consequences deriving from the arrival of boat people	6
Strengthening security of Italian/European citizens	5
Rescuing people in distress at sea	4
Extending state/EU influence towards Northern African states	4
Enhancing state/EU control over Mediterranean sea-lanes	3
Testing the efficiency of FRONTEX	1
Fighting domestic crime (Immigrants could easily turn into criminals once landed on the Italian/European coasts)	1

In the subsequent question (**Q 2.2**), respondents were asked to specify additional policy objectives. Seven officers affirmed that the list included in the previous question was exhaustive. The others gave mixed answers. Some interviewees (three) underlined the objective of saving people's life. In their opinion interceptions are to be considered as rescue operations, although one of the three also noted that another objective is 'the enforcement of the relevant regulations on lawful entry into the territory of the Member States'. One respondent added that interventions could facilitate reaching common standards and rules governing such interventions. One referred to the application or enforcement of migration law. Two other officers argued that the real objective of such measures is to take advantage of people's fear in order to try to introduce legislations in breach of human rights law. Only one interviewee referred to the issue of national security as one of the key goals of interceptions.

Question **Q 2.3** concerned the interests of migrants. Answers in the first instance pointed at the scarce economic conditions of migrants, without forgetting more humanitarian reasons:

Table VII.5: Interests of boat people

Interests	Hits
Improving their economic conditions	12
Fleeing war or other violence in their home countries	10
Escaping persecutions	9
Improving their social conditions	9
Transferring money back in their countries of origin	7
Saving their own lives	6
Integrating into local societies	4
Doing any kind of job, including illegal or criminal activities, in order to make money	3
Working underpaid in order to make money more rapidly	2
Exporting their culture of origin abroad	0

After a multiple choice question, **Q 2.4** requested officers whether there were other interests to be mentioned. The vast majority of respondents (eight) answered negatively. Conversely, one interviewee cited the migrants' goal of joining their families and relatives in Europe, whilst another one affirmed that there are for sure other interests but (s)he was not in the position to be more specific because of 'the alienation of migrants'.

In **Q 2.5** interviewees were asked to link the policy objectives of interceptions with the interests of migrants. Results are summarised in the table below.

Table VII.6: Links between policy objectives of interceptions and interests of migrants

	Improving their economic conditions	Saving their own lives	Escaping persecutions	Fleeing war or other violence in their home countries	Improving their social conditions	Working underpaid in order to make money more rapidly	Exporting their culture of origin abroad	Doing any kind of job, including illegal or criminal activities, in order to make money	Transferring money back in their countries of origin	Integrating into local societies	Total
Strengthening security of Italian/EU citizens	1x	1x	1x	1x							4x
Preventing the arrival of uncontrolled migration flows to the Italian/European coasts	3x	2x	2x	2x	3x	2x	1x	2x	2x	2x	21x
Fighting the smuggling of migrants			1x	1x	1x						3x
Fighting human trafficking			1x	1x	2x						4x
Rescuing people in distress at sea		2x	1x								3x
Preventing the economic breakdown and the uncontrolled social consequences deriving from the arrival of boat people	1x							1x		1x	3x
Total	5x	5x	6x	5x	6x	2x	1x	3x	2x	3x	

The next query (**Q 2.6**) concerned the ethical values to be respected by officers during interceptions. The question gave rise to mixed answers:

Table VII.7: Ethical values to be respected during interceptions

Values	Hits
Humanity	11
Expertise	9
Transparency	9
Accountability	8
Honesty	8
Integrity	8
Obedience	7
Reliability	7
Impartiality	5
Social Justice	5
Courage	4
Efficiency	3

Question **Q 2.7** invited officers to highlight differences or potential conflicts between the values selected in the previous query and those promoted by their organisation. The majority of respondents (seven) argued that there are indeed no differences or conflicts. One of them even said that these values are promoted by his/her organisation in case of participation to interceptions. Among those who emphasised possible discrepancies (three officers), one raised the issue of the obedience (to orders) as opposed to honesty, humanity and transparency. Another respondent stated that whilst in theory all the values mentioned should be respected, (s)he was not sure whether this would truly happen. The last one underlined the lack of information surrounding these interventions and that this might affect the enjoyment of the right of asylum by migrants as well as be in violation of human rights and constitutional law.

Q 2.8 mirrored the prior question requesting officers to highlight differences or potential conflicts between the values selected in Q 2.6 and their personal moral values. The question was aimed to provoke respondents on the real meaning of these values for them in light of the operations in question. However, almost the totality of respondents (eight out of nine) simply denied the existence of any conflict. One interviewee answered positively without commenting his/her answer.

The following question (**Q 2.9**) asked officers whether their organisation's leadership would be responsive to instances concerning the conflicts mentioned in the previous two questions or otherwise arising out of interceptions (even potentially). Almost the totality of respondents (11 out of 12) answered positively. One officer did not answer the question since (s)he had denied the existence of any conflict (even potential) in his/her previous answers. Three officers did not comment their answers further. One asserted that ongoing criminal investigations for crimes against migrants demonstrate this sensitivity towards the issue. Two respondents admitted that there have been discussions about the ethical aspects of these practices within their organisation, with particular emphasis on issues of human rights law. In contrast, five respondents (the 'loyalists' or

'faithful ones') gave more 'partisan' answers. They argued that: this kind of internal dialogue 'is part of their job'; they have a 'very good internal debate'; 'they work in a very open environment', etc. One of them declared that if someone came to him/her raising an ethical problem occurred during his/her work (s)he 'would be a little surprised'.

Q 2.10 dealt with the use of technology in interceptions. In particular, interviewees had to indicate whether technology may be useful in settling possible ethical dilemmas which may arise in the course of such operations. In case of a positive answer, officers were requested to spell out the specific tasks in the implementation of which this would happen. Tasks were included in a list. Four officers (out of 13 respondents) denied the role of technology in solving ethical dilemmas. The others replied as follows:

Table VII.8: Use of technology in interceptions

Tasks	Hits
Discovering people in distress at sea	6
Searching and rescuing immigrants in a more effective way	6
Identifying immigrants	5
Dealing effectively with practices of assistance to immigrants	3
Identifying possible asylum seekers or people enjoying a protected status	2
Tracking previous attempts of immigrants to enter Europe	1
Repatriating immigrants to their countries of origin	0
Establishing competencies of different Mediterranean countries in SAR activities	0

The potential support which could possibly be made available in the future by FRONTEX in interceptions was the topic of **Q 2.11**. In particular, officers should say whether the support in question could be useful in dealing with possible ethical dilemmas generated by such measures. Two respondents did not answer the question. Only two interviewees answered negatively. One argued that national ethical standards are higher than EU standards. The other one asserted that FRONTEX's participation in the interception of migrants would even worsen current ethical problems, as the Agency would pretend that the interventions concerned were rescue operations. The majority of interviewees (10) responded positively. Seven of them referred to the application of higher human rights and ethical standards, as well as the improvement in the procedures of assistance and in the transparency and openness of these operations, also due to the Agency's multicultural and multilateral approach. Two respondents stressed FRONTEX's technical and financial contribution, together with a positive intensification in the exchange of experience among officers of different member states. The last interviewee claimed that FRONTEX's intervention could help in mitigating 'populist decisions' by single member states.

Similarly, **Q 2.12** concerned the establishment of permanent relationships between the EU and Libya in order to tackle irregular migration. Interviewees were requested to say whether this rapport is to be considered essential for that purpose. As in the previous question, only two respondents answered negatively. One pointed out that so far EU efforts have been ineffective, also with regard to the protection of human rights, since Italy and Libya are dealing with the issue bilaterally. The

other one stated that in general FRONTEX's tasks are more practical and unfit to be assessed under an ethical point of view. 10 officers, conversely, were convinced that the EU involvement is at least important to address the problem. However, in their comments, five of them also raised the issue of the respect of human rights and refugee law in the implementation of interceptions, being rather sceptical that the situation could really improve. One respondent pointed out that the EU links with Libya are important but not essential, as other factors should be also considered. Two officers stated that this would be helpful especially for member states (one interviewee referred to Malta), also in order to finally address the issue of migration from Africa. The remaining two respondents were more enthusiastic in their answers, mentioning the EU capacity to tackle the economic reasons of migration and develop democratic standards in Libya, although one of them acknowledged that the topic is 'sensitive and extremely complex also from a legal perspective'.

In **Q 2.13** officers were requested to explain the adoption of interceptions. They could choose from a list of different *raisons d'être* or give an open answer. All the respondents opted for the motivations included in the list. Their responses are summarised below.

Table VII.9: Motivations for interceptions

Motivations	Hits
It is an exceptional measure due to the magnitude of the phenomenon and the risk of further uncontrolled migration flows	6
It is a security practice which (at least partially) responds to the domestic political interests of national leadership	6
It is a common security practice undertaken in the context of ordinary state powers	4
Media have favoured/encouraged its adoption	3
Media have had a major role in the adoption of such a security practice	3
It is an exceptional measure due to the need of maintaining order and security in Italy/Europe	2
It is an exceptional measure due to the current economic crisis in Europe	1
It is an exceptional measure due to the current crisis of European societies, which are incapable of absorbing new migration flows	1
It is the sign that we are moving towards a progressive 'normalisation' of exceptional security practices	1
It is a security practice dropped in from on high	1

The last query of the second section (**Q 2.14**) concerned the consequences of interceptions on the interviewees' professional duties. Only one officer declared that such measures had no effect on his/her job. All the others (nine officers) responded positively. Two of them did not offer further comments. Five interviewees stated instead that interceptions raised either legal, ethical or moral challenges. The last two officers alluded to their new tasks, but only one talked about them in a positive way. The other respondent described the adoption of new migration laws inspired by security as totally useless.

c. Section 3

The third section (**Q 3.1**) began with a multiple choice question on the objectives of anti-terrorism/radicalisation policies. Interviewees answered as follows:

Table VII.10: Objectives of anti-terrorism/radicalisation policies

Policy Objectives	Hits
Strengthening the security of Dutch/British citizens	25
Preventing serious threats to the internal social order	24
Fighting international crime	20
Preserve the internal public order	20
Fighting domestic crime (Terrorism is a crime and radicalisation is often a first step towards terrorism)	18
Favouring social cohesion and peaceful relationships among individuals	15
Defending the Western identity and way of life	11
Preventing the fall of domestic consumption and other serious economic consequences	9
Defending the Dutch/British identity and way of life	8
Increase expenditures in the security sector	3
Mobilise people by rallying them around identitarian concepts and ideals	3

Officers had the chance to add other policy objectives in the following query (**Q 3.2**). More than half of respondents (16 out of 30) did not mention any further objective. The remaining 14 interviewees answered positively. Most of them (six officers) referred to the need to protect/promote/maintain or even bring (in the case of the conflicts Iraq and Afghanistan) 'democracy'. The latter term is mostly viewed in conjunction with the concepts of 'rule of law' and 'western identity'. This group occupies the middle of the 'authority spectrum'. On its side we find the 'loyalists/realists' (six officers), who instead called for strengthening the government's reliability or international reputation; reducing the economic impact of terrorist attacks; preventing and defeating terrorism; restoring confidence between government authorities and society; and mainstreaming counterterrorism strategies in other policy arenas. Ultimately, on the other side of the scale there are two officers ('the moderate ones') who highlighted more socially-inclusive goals, such as protecting everyone's personal beliefs within the rule of law or helping radicals to get back into society 'in a positive way'.

As occurred in the second section with regard to boat people, the third query of the third section (**Q 3.3**) reported a list of potential interests of terrorists and violent extremists, that respondents were requested to select. Their answers are summarised below.

Table VII.11: Interests of terrorists and violent extremists

Interests	Hits
Making state authorities pay for some kind of offence received	24
Imposing their vision of the world and society	24
Spreading anger and fear among the population	23
Conditioning national and local politics	18
Claiming their rights at any cost	18
Making local population pay for some kind of offence received	13
Gaining visibility in the media in order to increase their popularity	11
Responding to discrimination by local people	8
Presenting themselves as a credible political leadership for immigrant communities	6
Claiming their rights by any lawful means	6

Q 3.4 granted interviewees the chance to specify additional interests. Differently from Q 3.2, here the majority of respondents (20 out of 29) indicated additional motivations. Most of times, however, they simply expanded further the answers they had previously selected from the list. Apart from one respondent who did not comment his/her answer and simply affirmed that terrorists/radicals have other interests which are not reported in the list, all the others can be divided in two categories; those who think that terrorists/radicals have a more or less clear political agenda and those who see their violent programmes as a result of personal grievances or concerns. The former group is more numerous and encompasses 12 officers. The latter mostly mentioned the terrorists/violent extremists' goal of either influencing people's opinions on international problems or attempting to impose a social model based on religion. Spreading mistrust in the population would thus only be a means to achieve a wider political objective, even in terrorists/extremists' countries of origin. The remaining seven respondents focused on more personal motivations, or otherwise those internal to the terrorists/extremists' communities of origin. According to them, therefore, a major role would be played by the terrorists/extremists' ego or their personal grievances, as for instance that of feeling 'rejected' by society. This sense of disparity would produce a mix of frustration and revenge (one of the respondents evoked Louise Richardson's 'Three Rs', i.e. Revenge, Renown and Reaction – see Richardson 2006) which would in turn represent the breeding ground for attacks.

Similarly to their colleagues concerned with the other case study, in **Q 3.5** officers were asked to link objectives of anti-terrorism/radicalisation policies and interests of terrorists/extremists. The table below summarises their responses.

Table VII.12: Links between objectives of anti-terrorism/radicalisation policies and interests of terrorists/extremists

	Spreading anger and fear among the population	Making local population pay for some kind of offence received	Making state authorities pay for some kind of offence received	Conditioning national and local politics	Imposing their vision of the world and society	Presenting themselves as a credible political leadership for immigrant communities	Gaining visibility in the media in order to increase their popularity	Responding to discrimination by local people	Claiming their rights at any cost	Claiming their rights by any lawful means	**Total**
Strengthening the security of Dutch/British citizens	7x	2x	6x	1x	2x				2x		20x
Preventing serious threats to the internal social order	11x	1x	1x	1x	2x	1x	1x	1x	3x		22x
Fighting international crime	2x			1x	1x						4x
Fighting domestic crime	4x		1x		2x				1x		8x
Defending the Dutch/British identity and way of life		1x		1x	4x	2x	1x		1x		10x
Defending the Western identity and way of life				1x	3x				1x		5x
Preserve the internal public order	1x			3x	1x			2x	1x		8x
Favouring social cohesion and peaceful relationships among individuals	3x		1x	1x		2x	1x	1x	1x	1x	11x
Preventing the fall of domestic consumption and other serious economic consequences							1x				1x
Total	28x	4x	9x	9x	15x	5x	4x	4x	10x	1x	

In the subsequent question (**Q 3.6**) officers had to select from the 'standard list' those values which security professionals should respect in carrying out anti-terrorism/radicalisation policies. Interviewees ranked values as follows:

Table VII.13: Values to be respected while implementing anti-terrorism/radicalisation policies

Values	Hits
Expertise	26
Accountability	25
Integrity	24
Honesty	21
Courage	20
Impartiality	20
Humanity	18
Reliability	18
Transparency	17
Efficiency	14
Social Justice	12
Obedience	10

Q 3.7 requested officers to specify whether they find any difference or potential conflict between the values that security professional must respect in implementing anti-terrorism/radicalisation policies (i.e. those reported in the previous question) and those promoted by their organisation. The vast majority of respondents (20 out of 29) denied the existence of any conflict. 16 of them did not comment their responses further. The remaining four officers, however, underlined that although differences should normally be excluded, exceptions can arise. One argued that it has to be seen how counter-terrorism operations are really conducted; another one reported his/her organisation's concern on the relationship between counterterrorism policies and human rights; a third officer argued that 95 percent of his(her) organisation's work is perfectly ethical; whilst the last respondent affirmed that values are questioned by his/her organisation only 'when something goes wrong'. Two interviewees of this group also declared that not only there are no differences, but values are 'an integral part of the job' or that respecting such values is even a goal of their organisation.

Conversely, nine interviewees lamented discrepancies between values and activities. Three of them stressed a lack of transparency which would clash with the promotion of impartiality, accountability and reliability. Two officers admitted tensions as a result of the tasks they are demanded to carry out (mostly intelligence). Two other respondents put the blame on the increasing bureaucracy, which would put at risk efficiency, courage and impartiality. One interviewees confessed that dilemmas can arise at any level, i.e. political, organisational and operational level. The last one – perhaps with a bit of realism – noted that his/her tasks may sometimes run against the promotion of social justice, since such tasks are undertaken according to the law, which in turn grants people a different status and rights (e.g. according to their nationality) and does not 'treat people equally'. According to him/her, social justice would be realised only 'in a normative way'.

Along with the previous question, **Q 3.8** referred to potential conflicts or differences between the values selected in Q 3.6 and the interviewees' personal moral values. Answers reflected those received in the previous question. Again, 19 officers out of 27 denied the existence of any conflict. Only one of them commented his/her answer and confessed that the lack of transparency, due to the

secrecy of procedures (s)he has to follow, may raise some concern under this point of view. The remaining eight officers highlighted different comments. Two admitted a conflict in intelligence or 'behind the scenes' operations, whilst others stressed the clash between their personal integrity and courage with the obedience or the loyalty to the organisation, which rewards people who do not expose themselves to criticisms or who are totally conformist. Two officers affirmed the need 'to draw the line' somewhere or to rely on humanity, honesty and transparency, 'rather than on security' as such.

The following question (**Q 3.9**) concerned the possibility for the interviewees to raise ethical questions originated by the implementation of anti-terrorism/radicalisation policies with their organisation's leadership. Only a small minority of respondents (three officers) answered negatively. The remaining 24 interviewees maintained that their organisation is rather open to such a kind of instances. 17 did not comment their answer or simply asserted that: their organisation's leadership is rather responsive; this is a part of their job; the organisation is really transparent and fosters an open debate of such issues, etc. Two officers specified the operational sector where these conflicts would take place, i.e. intelligence gathering and anti-radicalisation policies. Three interviewees were a bit more sceptical about the existence of situations to be reported. They stressed the need to limit consultations to substantial issues or postpone them after the execution of tasks. Conversely, the last two officers looked more doubtful towards their organisation. They contended that bureaucracy is complicating the internal debate about ethical dilemmas in these practices and that they need more support from the political authorities on these matters.

Q 3.10 requested officers to express their view on the capacity of technology to help security professionals in dealing with ethical dilemmas caused by anti-terrorism/radicalisation policies. Those who were convinced of this capacity could specify their answers further by choosing from a list the operational tasks where such assistance would be provided. A third of interviewees (10 out of 30), however, challenged the role of technology in assisting to solve ethical dilemmas. On the whole, they argued that although technology may be useful in operational terms, the ethical reasoning at the basis of decisions remains in the hands of officers, whose work could be even more complicated by the use of technological instruments. As a Dutch officer pointed out: 'the use of technology is never devoid of ethics'. On the contrary, 20 officers replied positively to the query. Their answers are shown in the table below.

Table VII.14: Technology in the implementation of anti-terrorism/radicalisation policies

Operational Tasks	Hits
Circulating information on suspects among security agencies	17
Checking communications of suspects	16
Tracking movements of suspects	16
Tracking financial transactions of suspects	16
Exchanging information on suspects with foreign security agencies	16
The surveillance of venues and people 'at risk'	15
Gathering intelligence information on potential suspects in an anticipatory way	14
Elaborating profiles of suspects	13
Elaborating communications of suspects	12
Collecting evidence in 'ordinary' criminal investigations	12

The EU support – through its Agency EUROPOL – for the implementation of 'more ethical' anti-terrorism/radicalisation policies was addressed in **Q 3.11**. Almost half of interviewees (14 out of 31) did not answer the question, either being unaware of the specific tasks of EUROPOL in the sector concerned or having not any professional contact with the Agency. Of the remaining 17 officers, only three replied that Europol cannot assist in solving ethical dilemmas originated by such security practices. One of them did not comment his/her answer further. The other two respondents maintained that EUROPOL's powers are limited, as the agency only deals with information exchange, but EU 'resolutions and documents' are nevertheless helpful for their ethical or political contents and repercussions on a wider public. Conversely, among those who answered positively, six interviewees praised the work of EUROPOL in information sharing and in settling legal and ethical challenges, also declaring that they were confident in the truthfulness of information provided by the Agency. This would favour 'more ethical' decisions, being members states 'capable to learn from each other'. Four other respondents did not add comments to their answers. Two officers asserted that the EU role has to be perceived as 'ethical' or 'positive' as such, and this is why they back the involvement of EUROPOL. Ultimately two interviewees argued that although the contribution of EUROPOL would in principle be useful, national institutions should not rely too much on it as for the solution of ethical dilemmas.

In **Q 3.12** interviewees had to indicate how their organisation had been modernised or rationalised re the adoption of anti-terrorism/radicalisation policies. Officers could choose their answers among several options. This is how they replied:

Table VII.15: Recent organisational reforms due to the adoption of anti-terrorism/radicalisation policies

Changes in service	Hits
Established/strengthen links with other domestic security agencies belonging to a different type of service	21
Established/strengthen links with other foreign/European security agencies	18
Service is now/will become more result-oriented	17
Service is now/will be more effective	17
Service has been centralised	13
Service is now/will become more discretionary	12
There has been a considerable change of functions – mainly oriented towards intelligence gathering	10
Middle-level officers now/will face more difficulties in their duty	10
There has been a considerable change of tasks	9
Service has been de-centralised	7
Service is now/will become less discretionary	5
Middle-level officers now/will face less difficulties in their duty	4
Service is now/will be less effective	1
Service is now/will become less result-oriented	0

In the following question (**Q 3.13**) officers were asked whether terrorism and or radicalisation are rising in their country. 11 out of 31 denied such an increasing. Most of negative answers were given by Dutch officers on the basis of the official threat assessments released periodically by NCTb. The remaining 20 respondents had different views as for the roots of this escalation. They were asked to select possible causes from a list. Their responses are summarised below.

Table VII.16: Rise of terrorism and radicalisation

Causes	Hits
Socio/political context and local culture have a role in their diffusion	12
It is because our society faces a serious identity crisis	8
It is mainly due to differences of culture	6
It is mainly due to discrimination experienced on a personal level	6
It is the product of a culture of fear coming from abroad	5
It is mainly due to differences of religion	5
It is mainly due to unemployment and other economic reasons	5
It is mainly due to discrimination experienced by immigrants	5
It is mainly an endogenous process, generated within our society	5
It is mainly due to uncontrolled immigration	1

Five officers also included further causes, i.e. the national foreign policy in Iraq, Afghanistan and Palestine as spread through the media, the failure of political institutions to mould a more inclusive society, the global anti-Western ideology promoted by Al-Qaeda and the misuse of religion by violent extremists and terrorists.

Q 3.14 asked officers to explain the adoption of more pressing anti-terrorism/radicalisation policies in their countries by choosing one or more plausible answers from a list. They answered as follows:

Table VII.17: Explanations for the adoption of anti-terrorism/radicalisation policies

Explanations	Hits
They may be deemed as exceptional measures due to the magnitude of the phenomenon and the continuous risk of terrorist attacks (radicalisation may be considered as a 'first step' towards terrorism)	21
They are exceptional measures due to the need of maintaining order and security in the UK/Netherlands/Europe	15
They are the sign that we are moving towards a progressive 'normalisation' of exceptional security practices	15
Media have had a major role in the adoption of such security practices	12
They are security practices which (at least partially) respond to the domestic political interests of national leaderships	10
Media have favoured/encouraged their adoption	10
They are common security practices undertaken in the context of ordinary state powers	9
They are security practices dropped in from on high	5
They are exceptional measures due to the current crisis of European societies, which are hardly capable to integrate immigrants	1

One respondent added that anti-terrorism/radicalisation policies represent a commitment to build an understanding of the problem with the aim of better addressing it under a more comprehensive approach.

As in the previous section, the last question of the questionnaire (**Q 3.15**) requested interviewees to state whether the adoption of anti-terrorism/radicalisation policies had any relevant consequence (direct or indirect) on their professional duties, including their motivations, interests, affection, etc. One third of respondents (nine out of 27) maintained that the adoption of such security practices did not significantly change their personal motivations or their tasks. Most of them belonged to organisations which also deal with other major tasks (see e.g. the police), but others simply said that these policies are a part of their job and they would implement them as any other policies they would be demanded to execute. Even among those who replied positively, six officers did not comment their answers or basically stated that: 'this is our job' or 'this is the reason why we are here' and why 'our organisation was established'.

Another group (seven respondents), however, referred to the need to broaden their external contacts and their expertise in order to consider new norms, disciplines and perspectives. They were pushed to be creative and innovative, to carry out non-traditional tasks (such as, for example, working abroad) and to study in depth the religious roots of the phenomenon as well as its links with irregular migration. The remaining five respondents emphasised consequences on a more personal

level, arguing that the implementation of anti-terrorism/radicalisation policies had induced a positive self-reflection on their work. They revealed that being involved in the implementation of these security practices had made them think 'what is the right thing to do' in certain circumstances, or reflect in depth on the adoption of harsh measures (e.g. detention without charge and glorification offences) in order to tackle terrorism and radicalisation. A couple of officers belonging to this group also pointed out that counter-terrorism legislation can have tough and undesirable consequences on immigrant communities. Two other respondents of the same group argued that such policies – and more in general this constant pressure on security matters – had increased their sense of insecurity and made them reflect on the potential misuse of government powers with the aim of creating additional social anxiety.

VIII.   Research Results

'When you have to shoot, you can't think about morality!'[212]

1.   Introduction – Preliminary Issues and General Outcomes

The main results of this study are presented following the research questions reported in Chapter V. However, before addressing them in more detail, there are a number of preliminary issues and some general outcomes of our analysis which deserve further consideration. Such issues can assist the reader in fully understanding this part of the Report and explain its objectives further.

First of all, it has to be noted that – as mentioned in Chapter VI – officers interviewed do not represent a balanced sample of European 'security professionals'; not even if we look only at their specific fields of expertise. This is the reason why we opted to consider data comprehensively, without subdividing them as per country of origin or categories of security professionals (e.g. intelligence, military, police officers, magistrates, etc.). In this way, the geographical extent of this study and the variety of officers interviewed can be seen as an advantage for the credibility of results, since when common issues or traits are found among interviewees, it means that the likelihood that they can be extended to other European security professionals is rather high (see the 'transferability of results' reported in Ch. VI). Different opinions or behaviours among respondents have been also addressed, even though in this case the chances to extend the results of the analysis (and thus the reasons at the basis of such differences) to other professionals are limited, as the little number of interviews and the use of selected case studies render the results in question too specific and partial. Nevertheless, the existence of different views and conducts among security professionals is itself a valuable outcome, which could pave the way to further research on the causes of such dissimilarities.

Secondly, it has to be observed that the specific results arising out from each one of the two case studies have different 'weight' on the substance of this Policy Recommendation Report. *In primis*, this is due to the diverse number of interviews conducted for each case study. Interviews carried out for the case study on terrorism and radicalisation (33 officers) are many more than those related to the case study on the 'push-back' of migrants (16 officers – one respondent replied to both sections of the questionnaire). As stated before, this disparity is mostly due to the rejections we received in reply to our interview requests from all but one the six Italian state institutions and directorates directly involved in the implementation of interceptions. Rejections were based on: a) the asserted

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[212] Dutch security professional, statement made during an interview with the author, Spring 2010.

compliance of the organisations' activities to the Constitution, the international conventions and the national laws in force (including the code of military discipline) and the 'impossibility' to comment on them; b) the asserted technical and operational role played by the organisations involved, which would make any further ethical assessment 'unfit'; and again c) the impossibility – 'due to the norms in force' – for the personnel belonging to the relevant organisations to be interviewed.

The rather centralised procedure to request interviews and the responses received reveal a limited openness of these organisations to external entities, a low interest in research activities on the ethical aspects of their tasks and, above all, the high sensitivity of the topic examined. Besides, these formal responses and the resistance to external instances highlight, once again, the urgency to undertake in-depth studies on the ethical connotations of security professionals' work, with the aim of assisting security organisations themselves to achieve a better understanding of the consequences of their mission.

Apart from these preliminary considerations, our analysis highlights some general reflections on the answers received from our interviewees, based on their country/institution of service. On the whole, interviews conducted in the Netherlands and the UK have been relatively more 'open', while most of the officers in Warsaw and Italy seemed more bound to their organisations' official policies in their answers. If this holds true, it could be due to a number of reasons, e.g. different working cultures (according Geert Hofstede's works on the links between national and organisational cultures – see e.g. Hofstede 1984) and the clarity of the legal and political scenario. Whilst in fact the fight against terrorism and radicalisation have a basis in domestic legislation, there is a far more limited legal basis for the interception of migrants. Nevertheless, in both case studies, interviews appear to confirm that governments and organisational leadership tend to formally or informally support the implementation of the security policies examined in our study.

Therefore, the reason for this distinction in the 'frankness' of answers could be also sought elsewhere. In our opinion, what makes the difference is the perceived legitimacy of the measures concerned and the support the respondents think they would receive in case their conduct is questioned by another authority (including the judiciary), the media or civil society. In other words, security professionals are likely to respond more frankly and openly when: a) they are confident that there is a limited chance that the policies they address are questioned; b) they are confident they will not face negative repercussions for what they say, in light of the trust they have in either their organisation, the interviewer or the conditions of anonymity. Organisational culture, dedicated training and personal motivations also seem to play a pivotal role.

Given the number of interviews and agencies involved, the Netherlands can be considered the only country in which a more comprehensive study has been carried out. Interviews showed a general openness and availability by all the respondents, even when they included intelligence officers. Especially in comparison to the interviews conducted in Italy and Poland, it is apparent that Dutch officers show a relatively high level of professional reflection on the ethical features of their job. This may be due to the fact that they receive training in professional ethics and integrity or otherwise that they are motivated by their organisations to follow ethical standards. In contrast with their British colleagues, who often referred to the increasing use of performance indicators during interviews, Dutch security institutions mostly rely on informal methods to secure that their activities are implemented ethically. Dutch officers also appear to have a good deal of confidence in 'the system', i.e. in their organisation and its activities as a part of a greater system of institutions which are explicitly dedicated to tackle the issue of collective security.

The vast majority of respondents in the Netherlands deem 'the system' fair and ethical, even though they recognise the existence of dilemmas in the implementation of their duties and tasks. As a Dutch

interviewee noted: 'The system is good but we need to be less anxious'. Their answers generally demonstrated a mix of realism and idealism, in that officers seemed to look at the reality of problems without losing contacts with the strong idealistic character of their job. The latter's final aim is mostly that of 'guaranteeing social cohesion' (see the answers to **Q 1.7** in Ch. VII).[213] In consequence they act principally under a pragmatic-instrumental approach, with the final aim of moulding a social order which may be as widely acceptable as possible. As a Dutch officer affirmed during his/her interview: 'In order to keep the Dutch society and the social order functioning, we design policies that an individual level might seem in conflict with ethical values'. Dutch interviewees indeed believe that their 'value-inspired' but also 'pragmatic' security system will be successful in protecting society from internal and external threats. That is why, for example, they mostly think that terrorism and radicalisation are not rising in their country (see the answers to **Q 3.13** in Ch. VII).[214] According to a Dutch counterterrorism officer, in fact: 'Terrorism stops when you provide terrorists with a normal life'.

Several of these characteristics appear to be shared by our British respondents, although their interviews also revealed an increasing formalisation of their tasks. The security policies they are mandated to implement are often formalised and the terms of reference of their tasks (such as 'equality', 'diversity', 'violent extremism', 'terrorism', etc.) are spelled out in detail in official documents. Interviewees referred to these values several times in the course of our talks. This might demonstrate the need for security institutions to identify clear concepts and values as points of reference for their activities. Such a need could in turn represent the consequence of past failures in protecting society from the risk of radicalisation and terrorism.

This implies that the system itself has been now reformed with the aim of promoting values and principles which may be shared by the Islamic as well as the white population. In Britain the value shift we are looking for is due to the need to reform the system in light of past failures. The need to refer to the *same* understanding of values and principles, as detailed in official documents, generates some pressure from the center to the periphery of the security system, namely from the central government (which is also responsible for most of funding) to local police forces and security agencies. One British respondent for instance mentioned an increasing shift towards a 'more locally-oriented accountability' for the implementation of government policies. Security professionals are then due to implement anti-terrorism/radicalisation policies working within communities but bearing in mind that they are fostering social cohesion by pursuing values and principles agreed at a higher level.[215] According to another British officer, this does not prevent 'conflicts between community values and overarching police values' to occur.

In sum, as mentioned above, officers often find themselves dealing with values, professional ethics and performance indicators agreed at a higher level.[216] The respondents' overall reliance on these concepts and practices – even if officers interviewed did not take part to their elaboration – demonstrate their loyalty to their organisation and job as such, not as a consequence of a self-reflection on the purpose and results of their work. This does not prevent them from having a strong

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[213] A Dutch respondent summarised the strategy with the motto: 'preventing destabilisation by investing in social cohesion'.
[214] As a Dutch counter-terrorism officer stated during his/her interview: 'Our threat level is "limited" and of an external rather than internal nature'.
[215] In this respect, one British officer observed that 'police and security services are more active in communities, and this requires a greater degree of visibility, accessibility and transparency'.
[216] According to one of our British respondents, since 'the role of the police is being scrutinised and examined more closely than ever before, and the police are working in partnership with other agencies more so now than ever before, […] greater emphasis [is placed on] on accountability and integrity – especially since the advent of performance indicators'. Initially, the latter were mostly based on the number of crimes detected, but lately they were changed and they are now generally considered more effective by our interviewees. On the basis of such indicators, any Chief Police is now individually accountable for his/her performance.

faith in these results and welcome shifts in the ethical aspects of their profession as long as this increases the effectiveness and the perceived impartiality of their actions.

The assumed idealistic character of British officers' job is coupled with the instrumental character of their conduct. Policies remain instruments to be used when required. According to our respondents, for instance, the prevention of violent extremism is undertaken according to different methods, due to different local realities and budget constraints. Reportedly, whereas the tendency is to adopt a more 'comprehensive' approach in England (also including a different methodology and the organisation of social events), in Scotland anti-radicalisation policies are more focused on information gathering. In England the approach is apparently twofold, i.e. aiming at both fostering social cohesion in the long run, through for instance the organisation of social projects, and carrying out preventive operations in the short term.

Another specific issue which characterises the implementation of anti-terrorism/radicalisation measures in the UK is the attention paid by both state authorities and violent extremists on external factors, such as the British foreign policy towards Palestine, Iraq and Afghanistan (see the answers to **Q 3.13** in Ch. VII). Sentences such as 'for each five civilians we kill accidentally in Afghanistan we breed fifty more extremists at home' have been recurring during interviews. The moral perception of British officers' actions, both at home and abroad is deemed fundamental in circumscribing the chance of new recruitments among the radicals' lines. This might explain the urgency of relying on concepts which may be considered as much neutral and politically correct as possible. The widespread focus on external factors also affects the development of this internal-external security continuum, as it ends up adding new external variables to the value dilemmas we usually find at the crossroads of the internal-external domain.

In relation to the case study concerning the forced return of migrants at sea, the answers received by Italian and European officers have other characteristics. As mentioned earlier, on the whole interviewees concerned with the second case study have been more 'politically correct' in their answers, sometimes referring to both the official policies adopted by their organisation and the norms in force (including the application of human rights and constitutional law). For example, when asked to specify what values are important in their job or in carrying out interceptions, several interviewees responded by indicating that all the values listed in the questionnaire matter to them. Moreover, the fact that FRONTEX maintained to have not a part in the interceptions of migrants (see the interview with the FRONTEX Executive Director in the Appendices to this Report) made the survey on the shift in the ethical values as a consequence of the interceptions themselves more difficult. This has had an impact on the potential to generate useful empirical data.

2. The Shift in the Ethical Values of Security Professionals

As reported in the first question of our questionnaire (**Q 1.1**), almost all the interviewees are duty-bound to a list of codified ethical norms. This in practice shows that they *are aware* of the existence of such codes. Therefore, they know that they are obliged to respect ethical principles and values in their professional activity. In addition, they recognise that these codes are a specific product of their organisation, so that if they are seconded to another organisation or promoted to a more senior position, their ethical obligations increase. When asked about the importance of single values in performing their duties (**Q 1.2**) respondents mostly indicated, in this order: integrity, honesty, accountability, reliability and expertise. If we compare these answers with those received in **Q 1.4** (where interviewees were requested to mention which values are contained in their code of ethics), we may note that the first values selected by respondents in both questions almost coincide (those reported in **Q 1.4** are: integrity, accountability, transparency and reliability). Since they did not have a

copy of their code with them during interviews, hence they were not able to check it, it can be assumed that in their opinion their codes contain the values they *consider to be of importance* in their job. Remarkably, in **Q 1.8** some officers claimed that a written code is generally ineffective in guiding their job. In other words, more than normative ethics, security professionals tend to take into consideration descriptive ethics. This also confirms the intrinsic value of our study, in light of the non-normative character of our research on values and ethics.

Another interesting comparison can be done with the values which the interviewees' organisations are increasingly adopting (**Q 1.5**). Again, the values ranked among the first ones (i.e. efficiency, integrity, accountability and transparency) almost correspond to those reported in **Q 1.2** and **Q 1.4**, with a visible difference, i.e. 'efficiency'. This might imply that the values our respondents think their organisation is pressing on are also those which are important in their job and which their code *should* embed. This means that either the respondents' organisations are successful in spreading specific organisational values (which are more or less the same across different organisations) among their staff or the officers themselves have similar expectations on the values they should pursue, giving substance to the 'shared expectation theory' in organisational ethics (see Hulnick & Mattausch 1989: 516).

Nevertheless, another theory which could explain these similarity is the classic Daryl Bem's self-perception theory (Bem 1967), according to which people explain their attitudes by observing their behaviour and then reflecting on what attitudes must have caused them, in the same way they try to explain the behaviours of other people. By analogy, our interviewees could have simply tried to describe their professional conduct *ex post*, by reflecting on the values which they imagine could have in principle characterised their activities to date. This counter-intuitive explanation does not however affect the significance of their self-reflection. The fact that they referred precisely to those principles entails that a value shift towards such values has effectively occurred.

The selection of 'efficiency' by our respondents in **Q 1.5** deserves further attention. Whilst this value is ranked first among the values on which the organisations have recently become more demanding (**Q 1.5**), it is the last as for its importance in the security professionals' work (**Q 1.2**) and at the bottom of the list of codified values (10th out of 12 – **Q 1.4**). The same data emerge if we look at the values to be respected during anti-terrorism/radicalisation operations and interceptions. Here 'efficiency' is ranked 10th out of 12 (see **Q 3.6**) and 12th out of 12 (see **Q 2.6**), respectively. This means that although security professionals deem that their organisations are pressing on efficiency, they consider such a pressure as relatively irrelevant in their job. In fact, five officers argued that this shift towards efficiency is due to the budget cuts, while several others affirmed that the reason must be found in the increasing scrutiny of civil society and the media, which demand more accountability from security organisations following cases of corruption and lack of integrity (**Q 1.7**). Even those who did not refer to external causes maintained that the shift in question is the effect of a more significant role played by organisations in social life, meaning in practice that it is not the product of their action but something the organisations themselves aim at because of the complexity of their interaction with an increasing number of stakeholders. The respondents hence seem to not agree with the demand for a more efficient performance from them.

On the other hand, however, it has also to be noted that the majority of the respondents to Section 3 (**Q 3.12**) admitted that internal organisational reforms to tackle terrorism and radicalisation will render their service 'more effective'.[217] Effectiveness was also added by some respondents among

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[217] For example, a British officer noted that in recent years 'there has been a growth in capacity and capability across the four strategic imperatives of Pursue, Protect, Prepare and Prevent, coupled with greater freedom to work with partner agencies and communities'.

the values that their organisations aim at (**Q 1.6**). Although the concepts of effectiveness and efficiency are slightly different, it may be argued that for those who answered that way, effectiveness is an important paradigm to be considered in their job. These officers also welcome this shift towards an increasing 'effectiveness' in their organisations' activities. As a Dutch officer said during his/her interview: 'Ethics sometimes goes along with effectiveness, in that you may assume that what is not ethical is not even effective'. On the whole, therefore, it seems that although security professionals generally welcome reforms aimed improving organisational effectiveness, they do not think that such reforms should include an increase of their efficiency at work.

If we look at the values the interviewees claimed a security professional should comply with in the implementation of both anti-terrorism/radicalisation operations and interceptions (**Q 2.6** and **Q 3.6**), the result is noteworthy. Not only the values selected, namely 'expertise', 'accountability', 'integrity' and 'honesty', coincide in both questions, but they are also the same values ranked in the first positions in **Q 1.2** (which dealt with the duties deemed important in the interviewees' job). One reason which may explain this correlation could be that some of the officers interviewed do not have duties other than those related to the implementation of the policies concerned (e.g. they are anti-radicalisation/terrorism officers *only*), so that it would be easy to assume that the values they deem important in their job are also those the deem significant in the implementation of specific policies. However, this may be true only for a minority of interviewees, and mostly confined to the case study on terrorism and radicalisation. The fact that all the officers who are not always directly concerned with the implementation of the selected policies or otherwise have also different tasks think that those values are essential in carrying out both anti-terrorism/radicalisation policies and interceptions confirm that such values are those they always look at. Remarkable is also that officers concerned with very different security policies, such as those included in the two case studies, indicated the *same* values, with the exception of 'humanity', which ranked first in the case study on interceptions. The fact that respondents opted for 'humanity' is however to be read in the context of the particular circumstances of the case study itself. Intercepting and rescuing people in distress at sea is very different from collecting information on violent extremists or arresting a terrorist suspect. In interceptions, the 'counterpart', i.e. the irregular migrants, does not hold a criminal or quasi-criminal status, as for 'radicals' and terrorists.

3. Practical Consequences of the Adoption of Anti-Terrorism/Radicalisation Policies and Interception of Migrants at Sea on the Duties of Security Professionals – the European Contribution

The last two questions of Sections 2 (**Q 2.14**) and 3 (**Q 3.15**) dealt with the reaction of security professionals to the adoption of new security practices. In particular, such queries were aimed at assessing in ethical terms the possible consequences of the introduction of these measures on the work of our respondents. The answers received in the case study on terrorism and radicalisation were much more exhaustive than those relating to the one on interceptions. Nevertheless, in both case studies it is possible to highlight a common denominator, namely that the majority of officers consider facing new ethical challenges and moral dilemmas as professionally rewarding and intellectually stimulating. In order to be capable to fulfil new and non-traditional tasks as well as to address new legal, ethical or moral challenges, officers have had to be creative and innovative. They have been also required to broaden their knowledge of the phenomena concerned in order to better understand them. Other respondents are holding positions which have been created as a consequence of the adoption of new anti-terrorism/radicalisation policies. The latter have obviously had a major impact on their personal motivations and professional tasks.

There are however other practical consequences of new anti-terrorism/radicalisation policies, mostly concerning organisational reforms (**Q 3.12**). The answers received highlight a double shift. The first is external and directed towards other organisations and countries. The second is internal and hierarchical, aiming to a progressive centralisation of functions and enhance effectiveness. Officers indeed mostly referred to the 'establishment of links with other domestic as well as foreign or European security agencies' and to changes in the organisation of service, which has become more 'result-oriented, effective and centralised'. In this context, however, officers are assumed to have more autonomy and discretion in the implementation of their tasks. Given the aforesaid increasing centralisation of functions, this response could be also read in a critical way, as notwithstanding this hierarchical shift, officers were held more accountable for the decisions they are obliged to take. Their organisations would then only establish a kind of centralised framework for action, 'passing the buck' towards the base of the pyramid.

The questions on the future or current contribution of the EU and its dedicated agencies (EUROPOL and FRONTEX) in both the implementation of anti-terrorism/radicalisation policies and interception of migrants (**Q 2.11**, **2.12** and **3.11**) were aimed at assessing the EU role as an ethical actor.[218] In practice the queries should address the issue of European institutions as ethical symbols and source of ethical values shared Europe-wide. First of all, it must be said that in the case of the interceptions of migrants at sea, respondents included seven FRONTEX senior officers. The latter represented a good part of the interviewees concerned with the second case study. This has obviously affected the outcome of our analysis. On the contrary, with regard to the other case study, among the respondents there was only a EUROPOL senior officer who in the past has been also a senior Dutch police officer involved in counter-terrorism investigations.

Apart from these considerations, the future/potential/current participation of the EU in the implementation of anti-radicalisation/terrorism policies and interceptions of migrants is generally conceived as useful in dealing with possible ethical dilemmas. Unsurprisingly, the percentage of officers in favour of a European involvement is higher in the second case study (interceptions), rather than in the first one (terrorism and radicalisation). Concerning the establishment of EU-Libya permanent relations and the future/potential participation of FRONTEX (**Q 2.11 and Q 2.12**), officers are inclined to ascribe to the EU an ethical role vis-à-vis the position of Libya. Although the latter is in practice perceived as a country which infringes ethical standards and human rights, according to the majority of officers, the EU/FRONTEX intervention would help in securing the respect of human rights/refugee law and higher operational standards. The same reasoning also applies to the case study on terrorism and radicalisation (**Q 3.11**). According to the majority of our interviewees, EUROPOL is either 'ethical as such' or capable of inspiring more ethical decisions to member states, principally due to an in-built reliability of its information-sharing system.

This basically means that our respondents perceive the Union and its Agencies as actors which can more or less successfully promote ethical values such as humanity, social justice, impartiality and transparency (as derived by human rights/refugee law) but also efficiency, expertise and integrity (as a consequence of information-sharing and the adoption of higher operational standards) in the implementation of security policies.

4.   Changes in Professional Ethics and the Influence of Technology

According to the responses received in **Q 2.10** and **Q 3.10** most of our interviewees believe that the use of technology may be useful, at least in part, to settle ethical dilemmas emerging in the course of anti-terrorism/radicalisation operations or interceptions of migrants at sea. Since the concept of

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[218] The value shift in EU policies is assessed in Chapters I – IV.

'dilemma' entails a decision to be taken, these two questions in practice requested our respondents to reflect on the capacity of technology to assist officers in taking the 'right' decision according to their professional ethics and moral beliefs. When asked to indicate in which tasks technology may be of help, officers selected by large technical and operational assignments which are functional to the immediate objective of the security policies concerned: *identifying and getting rid of the threat before it is too late*.[219] This is in line with the introduction of the so-called 'preventive logic' in policing (Den Boer 2010, 28). In the case of terrorists and radicals (**Q 3.10**), in fact, the tasks selected concern the detection and identification of violent extremists, i.e.: 'circulating information on suspects among security agencies', 'checking communications of suspects', 'tracking movements and financial transaction of suspects', 'exchanging information on suspects with foreign security agencies'. The same can be said with regard to the interception of migrants (**Q 2.10**). Here the tasks selected are in fact: 'discovering people in distress at sea', 'searching and rescuing immigrants in a more effective way', and 'identifying immigrants'. As one interviewee said: 'Technology supports the effectiveness of detection [...] Effectiveness, including timely reactions, may be critical – as has been demonstrated in many cases – to save lives. But technology often does not prevent a departure of a boat full of would-be migrants in life-threatening conditions'.

In both cases, therefore, answers seem to depict this scenario: 'there is a possible threat out there but we do not know who or where it is and we have to identify it before it is too late; technology may help us'. In sum, officers consider technology to be of assistance in dealing with ethical dilemmas related to the use of precautionary tactics and methods. The latter are normally used to tackle threats which are perceived as 'external'. Extremists, terrorists and uncontrolled flows of migrants are in fact considered as *external* threats to the *internal* social order.

Even among those (about one third of respondents) who denied this ethical role of technology, there were several officers who recognised that technology may be useful in operational terms anyway. Nevertheless, they contended that sometimes technology can even make their job more complicated. As one interviewee said in respect to the interception of migrants at sea: 'The use of a sophisticated technological apparatus to detect people at a wider distance raises the issue of their rescue or assistance. Therefore, paradoxically, it might ends up exacerbating problems! The more you look, the more you may find'. Technology may therefore also make decisions less ethical, as it scores out individual professional (and thus moral) reflection.

5. The Organisational Leadership's Responsiveness

According to the officers interviewed, the responsiveness of their organisational leadership to instances concerning ethical dilemmas, both in general terms and in the context of anti-terrorism/radicalisation operations and interceptions is fairly good. The answers given to **Q 1.12** confirm that officers are confident that in case they have an ethical or moral problem in the course of their duty they can raise the issue at least with their line manager. The same can be said with regard to the two case studies (see **Q 2.9** and **Q 3.9**). In both cases as well as in **Q 1.12** the 'loyalists' (i.e. those who answered positively without raising any exception) represented the majority of respondents.[220] Those who expressed some limited criticisms tended to attribute the responsibility for the occasional lack of dialogue to the increasing bureaucracy and dependence on the political sphere of their leadership, together with the new tasks they are mandated to carry out as a consequence of the adoption of intelligence gathering and anti-radicalisation operations, as well as interceptions. Nonetheless, in almost all interviews, officers confirmed that, even when a frank and

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[219] See however the different meaning of term 'threat' in the two selected case studies reported in Subsection 9.
[220] According to a British officer for instance, in his/her organisation, 'there is much internal debate on the best approaches to prevent violent extremism and we are constantly learning from our work with communities, partners and researchers'.

open in-house debate is absent, organisations tend to analyse internally the legal and ethical repercussions of the implementation of security policies.

Although these data seem to confirm a good deal of confidence of security professionals in their organisational leadership, the risk of having received many politically-correct answers is high. If we look at the compliance between security policies and professional ethics or ethical values (see *infra* sec. 7) we may note that our interviewees also maintained that their organisations sometimes act unethically or immorally. Therefore, how would it be possible for the latter to raise an ethical or moral problem with their leadership when their organisation (and thus their leadership) is possibly violating the same ethical and moral principles? A Dutch respondent summarised the situation as follows: 'We are invited to be critical with our superiors as well, but you have to be careful, because this can also affect your career, [especially] if you are too frank [...] Basically, [however, the internal debate] is very much encouraged'.

6. The Importance of Ethics for Security Professionals

The totality of our interviewees responded that professional ethics is useful in their job (see **Q 1.8**). Only a minority of them did not add further comments. Two different dimensions – internal and external – emerged from answers. While several officers referred to professional ethics as an instrument to fix boundaries to their action towards external entities (i.e. other stakeholders such as citizens or other agencies), many others stressed more internal reasons, mostly indicating the nature of their job as requiring from them to perform ethically.

Also if we look at the values that the respondents added in their answers to **Q 1.3** (relevant values in their job) and **Q 1.6** (values which their organisations are pressing on) we can identify both an internal and an external dimension in the interviewees' reasoning. On the one hand they mentioned the need to perform so that their action is perceived as an example by the society (external dimension), while on the other hand they referred to more inner values, such as 'loyalty', 'independence', 'discretion' and 'individual responsibility'. Several respondents therefore found their ethical self-reflection at the crossroads of two distinct levels, i.e. along a personal internal-external ethical continuum. The importance of the 'external dimension' is also confirmed in **Q 1.7**, where some interviewees declared that more attention on certain values is required in order to show to the people that their organisations are accountable to society.

When the discourse moves to the influence of personal moral beliefs on the work of security professionals (**Q 1.9**), some differences emerge. First of all we find a good number of officers (16 out of 37) that either denied the influence of their moral beliefs in their job or admitted that sometimes they have to deviate from them. This first group therefore considers its professional ethics and its moral beliefs as two distinct concepts. When they act in their professional capacity not all of what they do is *moral* – according to their personal conception of morality.

However, the majority of respondents tended to either associate the concepts of morality and ethics or pay no attention to a possible difference between them. Here the analysis is more difficult, since it is hard to make a distinction between these two categories. None of these officers affirmed that they perform ethically and morally *at the same time*. They basically used morality and ethics as interchangeable terms. Just a few respondents simply stated that their moral beliefs are ethically led, which does not mean that their morality and their ethics cannot overlap. Anyway, we can conclude that, for these respondents, personal moral beliefs are important and may possibly play a significant role in their job, even at the cost of their professional ethics. This does not mean that the latter is not significant also for the eight interviewees who declared that they have to respect their professional

ethics even when it is in contrast with their moral beliefs. Being 'loyalist', however, if they have to decide between their professional ethics and moral beliefs they opt for the former.

7. Compliance between Policies and Professional Ethics/Ethical Values

The assessment on the asserted compliance with ethics and values of both the activity of security organisations and the policies implemented in the context of the two case studies, reveals some interesting results. When asked to highlight possible conflicts between the ethical values promoted by their organisations and the latter's activities (**Q 1.10**), the majority of our respondents answered positively, reporting the existence of discrepancies. Almost the same number of officers also lamented tensions with their moral beliefs (**Q 1.11**). One counter-terrorism officer even argued that 'one tries to strike a balance anytime'. An officer concerned with interceptions maintained that 'although in your work you must accept compromises, you also have to draw the line somewhere'. These data are similar to those included in **Q 1.9** and analysed in the previous section. Some of those who reported ethical conflicts imputed the latter – more or less – to their organisations or to the legal framework in which they operate. Several others referred to the particular nature of their tasks.[221] This is to say that clashes between their organisations' activities and their professional ethics are practically unavoidable since they are embedded in the type of tasks they are required to undertake. As a consequence, since in both cases these officers (who also represent the majority of our interviewees) do not believe in the full morality of ethicality of their organisation or legal system, they may either act as 'consequentialists'/'utilitarists' and believe that their organisations sometimes act unethically or immorally to achieve a superior good, or be simply disenchanted with their job, if not willing to challenge their organisations' activities in light of their understanding of ethics or moral beliefs.

Notable is however the divergence between these results and those arising out from the same kind of questions on possible ethical and moral conflicts with specific regard to the two case studies (**Q. 2.7**, **2.8**, **3.7** and **3.8**). The compliance between the implementation of anti-terrorism/radicalisation policies and interceptions and ethical and moral values has been assessed indirectly, by requesting interviewees to highlight potential conflicts between the ethical values they believe operators must adhere to in the interventions in question and the values promoted by their organisation or otherwise their personal moral values. Questions were basically intended to double-check the analogous questions included in the first section of the questionnaire (**Q 1.10** and **Q 1.11**) and make officers reflect on the ethical or moral repercussion of the policies concerned. Remarkably, here the answers received were completely different from those reported in Section 1. The majority of respondents indeed denied the existence of conflicts. In their opinion, therefore, the values officers are due to respect in anti-terrorism/radicalisation operations and interceptions are more or less those promoted by their organisation. In fact, as we noted earlier (see *infra* sec. 2), the values selected by our interviewees tend to correspond. Those values are more or less in line with the interviewees' personal moral beliefs.

There is however a distinction to be made o the basis of the two case studies. Most of the interviewees concerned with the second case study were not directly involved in the implementation of interceptions (at least at the time of their interviews), whilst almost the totality of officers concerned with the first case study were directly engaged in carrying out anti-terrorism/radicalisation operations. Actually, in the latter case study (**Q 3.7** and **Q 3.8**) we found less than one third of respondents lamenting discrepancies between professional values in anti-terrorism/radicalisation operations and either specific activities performed in the context of such

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[221] A police officer, for instance, mentioned possible tensions between intelligence and evidence. In his/her opinion, 'spying' eventually make you abuse people's confidence in the organisation.

operations or their personal moral beliefs. Remarkably, some of those who highlighted such tensions were nevertheless inclined to justify 'immoral' anti-terrorism/radicalisation policies in view of their effectiveness in tackling terrorism. As one of our respondents argued: 'Sometimes your personal moral beliefs have to be put aside in order to fight terrorism effectively, as it happens in the course of intelligence operations'.

If we compare the results of the first section with the second and third ones we may affirm that although in general our interviewees have a modest confidence in the morality or ethicality of their organisation's activities, they tend to maintain that anti-terrorism/radicalisation policies and interceptions of migrants are in line with the ethical values they are mandated to respect in the implementation of such practices. Also their personal moral beliefs are said to correspond to such values. In other words, if there is a lack of ethics or morality in the implementation of a security practice, it is argued that it is the responsibility of organisations and not of the officers.

8. A 'State of Exception'?

The existence of a possible state of exception which would favour the shift in the ethical values of security professionals is assessed in **Q 2.13** and **Q 3.14**. In both our case studies, the implementation of new security practices is deemed as 'exceptional'. Anti-terrorism/radicalisation policies are considered 'exceptional measures due to the magnitude of the phenomenon and the continuous risk of terrorist attacks', while interceptions are deemed 'exceptional measures due to the magnitude of the phenomenon and the risk of further uncontrolled migration flows'. The difference lies in the conception of this asserted exceptionality. Whilst anti-terrorism/radicalisation policies 'are the sign that we are moving towards a progressive "normalisation" of exceptional security practices' or 'are exceptional measures due to the need of maintaining order and security in the UK/Netherlands/Europe', interceptions are mostly conceived as 'common security practices undertaken in the context of ordinary state powers'. This means that interceptions tend to be ethically and morally acceptable by the respondents: the majority of them in fact consider such state powers as *ordinary*.

The role of the media is relatively important. Whilst our interviewees attribute to the media a key role in the their increased accountability towards the society and the political sphere (see *infra* sec. 1 and 2), they are a bit less convinced about the same role as for the adoption of the security policies in question, although they retain the contribution of the media unquestionable. In both case studies, the assumption that the 'media have had a major role in the adoption of such security practices' ranked 4th out of nine or 10. Furthermore, the fact that these policies may be driven by internal political logic is acknowledged by the majority of officers concerned with interceptions and by several anti-terrorism/radicalisation experts.[222] On the whole, therefore, even though security professionals admit that 'the threat' has been in part manufactured for the sake of national political elites and with the contribution of the media, they also tend to believe in the existence and in the risks related to such a threat (i.e. an 'exceptional' situation).

In sum, officers consider political elites and media as constant factors of the system, which can be hardly changed. For instance, according to one of our respondents, interception of migrants would be a mere symbolic action: 'Governments decide to invest in interceptions because boat people are visible. They are visible to the media and to voters, including when they die attempting to reach the European coasts'. Talking about migration flows towards Europe, another interviewee argued that: 'in general immigration is an area in which policies are driven more by a political rather than a logical

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[222] One respondent claimed that while police officers mostly look at 'the right thing to do' in specific circumstances, once you work 'in a political environment' you are also subject to political logics.

analysis. This applies to both institutions and citizens. On the one hand, in fact, I don't think that people really want to know about the problem. On the other hand, policy-makers mostly take decisions in this field on the basis of people's perception. Here comes the role of media, which in the past years have massively fostered the "fear of invasion" '. In consequence, since security professionals tend to see politicians and media as of no assistance in tackling the security threats in question, they imagine themselves as the (only) ones who can do it. Their role then becomes idealised.

9. Implementation of Policies in Light of Different Objectives and Interests

In order to assess the implementation of anti-terrorism/radicalisation and anti-immigration policies in light of ethical values, interviewees were asked to reflect on the objectives of such policies vis-à-vis the interests of the counterparts, namely violent extremists and migrants. Ethical dilemmas lie in fact at the crossroads of different interests and objectives. The answers given by our interviewees to **Q 2.1**, **2.2**, **2.3**, **2.4**, **2.5**, **3.1**, **3.2**, **3.3**, **3.4**, **3.5** helped in having a clearer picture of their opinion on the policies in question and on their self-perceived role in the policies' implementation framework.

What emerges from the answers received is a self-perceived strong ethical role by security professionals, in that they assume to fight evil/disorder so as to achieve good/a fair order. With regard to the objectives of anti-terrorism/radicalisation policies (**Q 3.1**), most of interviewees in fact referred to rather 'tough' goals, such as: 'strengthening the security of Dutch/British citizens', 'preventing serious threats to the internal social order', 'fighting international crime', 'preserve the internal public order'. When asked to add some other objectives (**Q 3.2**), interviewees frequently invoked the protection of democracy or the support to the government's credibility. This also occurred with regard to more 'critical' interviewees. One of them, for example, affirmed that the main goal of anti-terrorism policies is to 'demonstrate – through rules which apply equally to everybody – that ours are not just "so-called" democracies'. Here, even though (s)he criticises 'unequal' anti-terrorism policies, (s)he also praises 'ethically-oriented' policies, because the latter are capable of even strengthening democratic values.

The same can be said in respect of interceptions. Here (**Q 2.1**) respondents referred to: 'preventing the arrival of uncontrolled migration flows to the Italian/European coasts', 'fighting the smuggling of migrants and human trafficking', 'preventing the economic breakdown', 'strengthening security of Italian/European citizens'. In addition (**Q 2.2**), some officers claimed the 'need to save human lives' and enforce migration law. As one interviewee argued: 'The prevention of a sea departure that will, in very high chances, pose a direct and tangible threat to the lives of human beings is full of positive values'. Similarly, another respondent declared: 'I am aware of the ethical and moral problems generated by these operations; however, the latter are much better than accepting people dying at sea and being exploited, as it has occurred so far'. One interviewee, who on the contrary seemed to oppose the practices in question, asserted that the interception of migrants at sea 'has made me understand even more how bad the global economic-social system is – based on the tyranny of profit over people'.

The common denominator of all these answers is clearly a strong sense of morality. In the interviewees' opinion, anti-terrorism/radicalisation measures and interceptions own therefore moral aspirations. *A fortiori*, their ethicality is undisputed. As one respondent said in respect to the deportation of irregular immigrants: 'it can be the case that you have to force people with kids to leave the country; you know that it is inhuman but you have to do it, because you cannot allow hordes of individuals to enter your nation'.

Considering the case of violent extremists (**Q 3.3**), the answers obtained describe them as a meaningful threat for society. According to our interviewees, terrorists and radicals intend to: 'make state authorities pay for some kind of offence received', 'impose their vision of the world and society', 'spread anger and fear among the population', 'condition national and local politics', 'claim their rights at any cost'. Observing more closely the responses received, our interviewees are apparently particularly concerned about the political consequences of violent extremism. Indeed, summarising the answers of our interviewees, this situation emerges: a) violent extremists have rights and expectations which have been denied to them (they have received offences); and b) they now react spreading anger and fear among the population to impose their vision of the world and society by conditioning national and local politics. The answers obtained in **Q 3.4** strengthen this scenario. All the officers who mentioned further interests referred in fact either to the terrorists/radicals' political agenda or to their personal grievances or concerns. As we have just shown, the two circumstances are not incompatible.

When requested to link objectives and interests (**Q 3.5**), our respondents mostly opted to connect the goals of 'strengthening the security of Dutch/British citizens' and 'preventing serious threats to the internal social order' with the interest of 'spreading anger and fear among the population', which also resulted by far the most selected interest in the answers to this question. The links chosen show a clear conflicting rationale. Officers could in principle choose to associate policy objectives and interests of extremists under a more harmonic relationship, as for instance by connecting the objective of 'favouring social cohesion and peaceful relationships among individuals' with the extremists' interest of 'responding to discrimination by local people', but they did not. The answers received also reveal an idealistic conception of this confrontation, reflected in some *us v. them* background logic: '*They* want to spread anger and fear, *we* must impede this in order to preserve internal social order and security'. As a Dutch senior officer said during his/her interview, 'terrorists just try to render our society unstable'.

This picture is confirmed by the answers of those respondents who claimed the existence of a rise in terrorism and radicalisation in their country (**Q 3.13**), as they argued that this is mostly due to socio-political and cultural reasons, together with the possible discrimination experienced by violent extremists on a personal level. In practice, the rise of violent extremism is also seen as *our* responsibility. On the other hand, officers also pointed out that another reason for terrorism and radicalisation is the 'serious identity crisis' faced by our society. Remarkably, 'unemployment and other economic reasons' ranked only 5th out of 10. Thus, once again, whilst officers tend to recognise that frustration caused by discrimination experienced by living in an unfriendly context is among the main causes of violent extremism, they also blame their society for failing to oppose it on the basis of their collective identity. In sum, in the interviewees' opinion, the lack of a clear cohesive drive within society – more than other material circumstances – is at the basis of the rise of violent extremism.

The interests of migrants selected by our interviewees (**Q 2.3** and **Q 2.4**) tend to highlight a different conception of the 'counterpart'. Here a realist approach seems predominant. Officers in fact mostly mentioned the migrants' will of: 'improving their economic conditions', 'fleeing war or other violence in their home countries', 'escaping persecutions', and 'improving their social conditions'. An officer also recalled the migrants' goal of joining their families and relatives in Europe. However, it has to be considered that also in the other case study, radicals and terrorists were recognised as having rights and expectations. The difference is that migrants are not considered a threat *per se*, whereas the real risk is represented by 'uncontrolled migration flows'. In fact, exactly the goal of preventing the arrival of uncontrolled migration flows was the most selected interest when officers were requested to link policy objectives and interests of migrants (**Q 2.5**). Such a goal has been mostly put in relation with all the above-mentioned interests of migrants (i.e. 'improving their economic conditions', 'fleeing

war or other violence in their home countries', etc.), which may sound, *prima facie*, at all reasonable to anybody. Who would not escape persecutions and improve his/her own economic and social conditions? In practice, therefore, officers are inclined to recognise that in principle migrants would have rights and legitimate expectations, but there is the need stop them in order to prevent the disorder created by uncontrolled arrivals. This practice can be carried out according to the ethical values encouraged by their organisation (see *infra* sec. 7).

On the whole, therefore, whilst in the case of anti-terrorism/radicalisation policies the officers' realism mixes with the idealistic inspiration of their actions, in the case of interception, the officers' approach is predominantly utilitarian. In both cases however the links selected by the interviewees highlight a clash between opposite instances and not an 'assonance' of any kind. Also in the case of interceptions, in fact, respondents could connect objectives and interests under a more harmonious relationship. For example, they could link objectives such as that of 'rescuing people in distress at sea' with the migrants' interest of 'saving their own lives', but they did not. In sum, the fact of considering objectives of security policies and interests of extremists and migrants as opposing forces has never been put into question during interviews.

A number of conclusive remarks based on these results will be presented in the following chapter. The latter includes a summary of the main findings and the further analysis of some specific aspects arising out from the crossed examination of previous sections.

CONCLUSIONS

The main objective of this Policy Recommendation Report has been to establish whether or not security professionals are of the opinion that the intertwinement between internal and external security brings them into professional situations in which they are confronted with (more) value dilemmas. In general, it has been established that there is a shift in the European security spectrum. On the basis of existing literature, the main trends can be summarised as follows:

First, there is a growing link between internal and external security to the extent that root causes of security deficits in the EU are more often regarded as being related to external factors, such as the existence of fragile states, political instability, asymmetry in welfare distribution, drugs production, extremist organisations, endemic corruption etc. In its Security Strategy, the EU officially recognises a link internal and external security.

Second, there is increased co-operation between security agencies across the whole range, from police to customs, and from immigration and naturalisation services to intelligence agencies. This multi-agency co-operation, which also takes place increasingly between the public and the private sector, is officially endorsed and promoted by the European Union – e.g. in its Internal Security Strategy – promoted through building interconnectivity between instruments of control, such as data-bases.

Third, both at the level of the individual Member States as well as that of the EU collectively, there is an active encouragement of the preventive approach to serious and organised crime, radicalisation and terrorism, and to irregular migration patterns. This means that the precautionary logic has found its way into the vocabulary of EU instruments in the Area of Freedom, Security and Justice, as well as Action Programmes and Security Strategies. This approach means that the surveillance and monitoring will be used increasingly often to predict organisational and individual criminal offences and misconduct. The preventive logic is likely to complement – rather than substitute – the traditional reactive approach, but it certainly demands a new balance in the traditional presumption of innocence.

Fourth, the role of new technology in security and surveillance is growing significantly, against the background of an expanded range of mandates and executive powers. This means that security professionals do not only have more means to find information on individuals, they are also assisted by technological means in their decision-making (e.g. real time intelligence in public order activities). Innocent individuals may subjected to more control by police officers, border officials etc. Technology-assisted surveillance (data bases, biometrics, DNA, RFID, body scanners, retention of data etc) means that the privacy and procedural rights of citizens and travellers may be at stake.

Do these trends have any effect on the moral reflection of security professionals in Europe? Do they ever feel they are placed in an uneasy position, e.g. when their personal moral reflection is not in line with official government policy?

Though difficult because ethics and professional morale are not easy to reflect on openly and in a general manner, our researchers have undertaken empirical research on different dimensions of the security nexus. Below, we summarise the main conclusions of the research into the EU as a moral agent in the context of security sector reform, the implementation of rule of law in Kosovo, as well as a variety of security professionals engaged in the policy on the repatriation of immigrants and counter-terrorism.

Value Dilemmas in Policy-Making on the EU Security Sector Reform Policy

The first leg of the research project tackled a new and under-researched phenomenon: the ethical implications and value dilemmas faced in the design, programming and policy-making in the EU security sector reform policy at the level of the EU institutions in Brussels. The research concentrated particularly on the working relationship and converging/conflicting political agendas and approaches (development vs. peacebuilding vs. security) in EU SSR. The research has ascertained the following conclusions:

- *Shifting Ethics across Hierarchical Levels:*

EU officials at the higher echelons seem to be able to interpret the code of conduct of their organisation (the Commission or the Council General Secretariat) in a more flexible manner. A number of officials are politically appointed and thus are indirectly not bound by this code and/or are not aware of the contents of the code. In addition, those in higher positions enjoy more freedom to use their personal moral code and have the flexibility to be pro-active. Consequently, they have the freedom to act strategically and according to a set of interests. The upshot of this situation is that it also allows them to negotiate the interests of their organisation/unit favourably and tackle the sensitivities and complexities of the EU inter-institutional relationship.

Those EU officials working in lower positions who answer to a supervisor, on the other hand, do not usually question the given code of ethics. They therefore follow given procedures and assigned tasks and see themselves as part of a bigger whole. This tranche of officials have limited opportunity to reflect on value premises, partly due to the workload and partly due to the specificity of their tasks.

- *Value Dilemmas across the EU Institutions:*

The discourse on EU security among EU officials recognises the existence of the blurring of internal and external security interests and concerns, and thus resolutely supports European Commission and EU Council conclusions on this issue.

Within the EU Council General Secretariat there is a firm acceptance of this fact and even a persistent effort to justify the need for such a blurring and the innocuousness of its nature. Thus, the well-known political character of the Council General Secretariat persists, but is eased by the fact that the Secretariat has become a more bureaucratic institution due to its expansion and the creation of new Units. Nonetheless, the presence of a large number of seconded personnel in the Council General Secretariat translates into considerable absence of awareness of the given EU code of ethics. Rather, police officers seconded in the Secretariat act according to professional ethics in policing accepted at international level and do not know the contents of the EU code of ethics. Similarly, EU Member State seconded diplomats do not know or follow the EU codes of conduct and are more open to using their personal moral code in differentiating between right or wrong during decision-making.

The European Commission is a more bureaucratic institution, which largely consists of permanent and contracted personnel, who are tested on the code of ethics during the entry exam. These officials are much more aware of the values they 'must' follow and are less open to questioning them. Having said that, the SSR field has a specificity: it is an area of interest in which the Commission is increasingly acting in a more strategic and political manner. This may be due to the fact that a number of EU officials working on SSR have a security background (either they are police officers or are administrators who have worked on 'hard security' issues in DG RELEX). It is worth remembering that the SSR concept emerged from the development community; yet the infusion with hard(er) perceptions of security has led to the securitisation of development. In addition, the value of legality seems to be interpreted more flexibly by higher echelons in the EC: this does not imply that

they would initiate or engage in illegal activities, but rather they would interpret a given situation in a more elastic manner to accommodate certain interests (of their unit/organisation, not personal) when tackling complex obstacles (especially of an inter-institutional nature).

Ethical Ramifications of the Implementation of EU Rule of Law Reforms in Kosovo

The research went on to analyse empirically the value dilemmas and ethical considerations that result from the EU implementation of Rule of Law (RoL) efforts (as part of the broader SSR policy framework) in Kosovo.

EU officials – and particularly EULEX personnel, since the deployed CSDP mission is the lead organisation in rule of law reforms in Kosovo – are faced with value dilemmas as a consequence of the complex political situation they confront on a daily basis that emanates from the unresolved Kosovo status question. The fundamental *quid pro quo* lies in the fact that the EU lacks a strategic approach towards the self-declared state of Kosovo. Whereas the EU has regarded Kosovo since 2003 as a potential candidate for EU enlargement, the EU ignores Kosovo's statehood (pointedly referring to the '22+5 formula' in the EU institutions in Brussels), on the one hand, while treating it as a virtual state on the ground (through the everyday work of EULEX), on the other. As demonstrated, the proclaimed apolitical manner in which the EULEX mandate has been interpreted so as to be able to carry out reforms within the Kosovo institutions (and thus be effective and efficient) is a significant example.

This absence of strategy, however, undermines the credibility of RoL efforts in Kosovo, creates confusion on the ground – including at the level of values – and constitutes an ethical paradox *per se*. Not only the EU has no substantive long-term peacebuilding policy for Kosovo, but fundamental questions regarding EULEX *raison d'être* remain unanswered: *for what* and *for whom* is EULEX creating security institutions? These are also questions that EU officials deployed in Kosovo must answer to themselves while conducting their work. They are questions that can negatively affect their effectiveness, dedication, efficiency and belief in social justice. In some cases, depending on how long EULEX officials have been deployed in Kosovo (due mostly to the fact that some officials were already in Kosovo working for other donors), the questioning of the EULEX basis can also negatively impact on officials' objectivity/impartiality.

The situation is further compounded by the fact that the EU does not have real leverage on Kosovo's political leaders: the absence of an EU policy on the future of Kosovo (and its current political status at EU level) has meant that the EU has been unable to take substantial steps to integrate Kosovo in the Stabilisation and Association Process establishing a real prospect of EU integration. As a result, the very functioning of the mission is hampered. Some EULEX officers interviewed go as far as to claim that "the MMA does not function and is a mere formality", since Kosovo security professionals do not have any incentive to follow the EULEX advice that is offered to them. They can also obstruct the mission's job by not cooperating in investigations and by not sharing evidence, thus constraining the executive powers of the mission. Other international donors seem to feel that while the status neutral position is not detrimental to EULEX's day-to-day work, the far reached European perspective will have political ramifications, in that it cannot ensure political leverage and results in the short-term. The uncertainty created has ethical ramifications and negatively impacts on EULEX effectiveness, external accountability towards local stakeholders (issues of trust), efficiency and to a certain degree impartiality (it is difficult to remain impassive and dispassionate in such a charged conflict environment).

As the analysis of ethical dilemmas in the implementation of the European Rule of Law reform efforts in Kosovo demonstrates, the unresolved status question of Kosovo – essentially a political matter – trickles down to the implementation level and negatively affects every value except the ability to innovate, which on the contrary is very much put in use. The expertise of EULEX officials, which is overall rated as high, and the need for internal accountability (to the EU Council and the EU member states) compels EU personnel in Kosovo to find creative ways of implementing their mandates and programme activities in RoL reform.

Through its recent raids, EULEX wanted to demonstrate to Kosovo society that no individual, regardless of his/her status, is beyond the reach of the law. It therefore put great value on the notions of lawfulness, effectiveness and responsiveness to local realities and needs. In order to keep its credibility, however, it will need to live up to the expectations it has created and arrest the culprits. To do so, it must have the necessary evidence to arrest suspects, for which it needs the cooperation of local institutions. However, the awkward entanglement of 'internationals' in webs of corruption – as was the case of the Romanian EULEX officials being caught by the Macedonian border police trafficking important quantities of cigarettes and alcohol – has already compromised their credibility and tarnished their record as role models.

Shifts in Ethical Values and Value Dilemmas in EU Member States' Security Practices

The main goal of this second part of our research was that of conducting an empirical study which could assess the shift in the ethical values inspiring the activity of European security professionals when mandated to carry out new security policies. As relevant examples of such policies, our research has taken into account two case studies, namely the implementation of anti-terrorism/radicalisation measures in the Netherlands and the UK and the recent interception of migrants in the central Mediterranean Sea undertaken by the Italian authorities.

Although not all organisations were willing or able to co-operate, some professionals like those in The Netherlands demonstrated a sound level of self-reflection on the ethical aspects of their job. This may be due to their organisations, which either provide them with some training in professional ethics and integrity, or are capable to motivate them otherwise. Dutch organisations mostly rely on informal methods to secure that their activities are ethically implemented.

In the UK, the domestic security system has been progressively reformed with the aim of promoting values and principles which may be as much neutral and politically correct as possible and thus shared by the Islamic as well as the white population. The origin of this value shift may be due to the fact that terrorist attacks and widespread radicalisation in some areas of the country kept occurring. The moral perception of British officers' actions – both at home and abroad – by the population of Asian origin, is seen as essential in reducing the risk of new recruitments by violent extremists.

According to our research results, in carrying out their tasks, security professionals tend to rely on 'descriptive ethics', leaving apart codified sets of values and principles. This confirms the INEX Project's initial assumptions on the importance of non-normative ethics and corroborates the analogous results of our study on the EU SSR Policy and Value Dilemmas. Non-normative professional ethics is judged very useful in the work of security professionals. Their ethical self-reflection stands at the crossroads of two distinct levels, namely the internal and external dimensions of both officers (considered in either their personal or professional capacity) and organisations. The latter's activities have expanded both externally, i.e. in direction of other organisations and countries, and internally,

i.e. through reforms aimed at favouring a progressive centralisation of functions as well as an increase in the general organisational effectiveness.

Security professionals thus end up taking decisions along an individual internal-external ethical continuum. This is more visible when the influence of personal moral beliefs in the security professionals' work is concerned. Some of them consider their professional ethics and their moral beliefs as two distinct concepts, so that when they act in their professional capacity, not all of what they do is judged as moral (according to their personal conception of morality). On the contrary, other officers tend to associate the concepts of morality and ethics, so that they cannot exclude the influence of their personal moral beliefs on their job.

Our study also highlights an increasing shift in the ethical values of reference for security professionals. Principles such as integrity and honesty, accountability, transparency, expertise and reliability are held by security professionals among the most significant in their job. Organisations insist upon efficiency as well, but officers judge this move as relatively irrelevant. Indeed, although they generally welcome any modernisation of their organisations aimed at improving effectiveness, they do not think that these reforms should encompass an increase of their efficiency at work. On the whole, however, officers generally consider these new ethical challenges and moral dilemmas as professionally rewarding and intellectually stimulating.

This value shift is mostly due to external reasons, i.e. the potential consequences that misbehaviours of any kind (commission of crimes, violations of professional integrity, mismanagement of money, etc.) would have on the security professionals' work, being echoed to the public by the media.

Organisations tend to always analyse internally the legal and ethical repercussions of the implementation of specific security policies. The fear of harsh consequences for the organisational leadership, as a result of the government's reaction to the instances of voters, explains this increasing centralisation of functions and development of values at *personal* level. The responsibility for respecting professional integrity and honesty is in fact eminently *personal*. Expertise, reliability are in the hands of officers as well, while their accountability is referred towards both the public and their superiors. Transparency prevents protests from the people, etc. In order to avoid responsibility and backed by the political sphere, the organisational leadership is progressively 'passing the buck' towards the base of the pyramid.

The officers' reaction to these tactics is not so different. Whilst they consider the responsiveness of their organisational leadership to instances concerning ethical dilemmas as fairly good, they also have a modest confidence in the full 'moral fitness' of their organisation's activities and thus in practice they do not trust their leadership entirely. In fact, in the case a lack of ethics or morality arises, officers tend to play down their responsibility and refer to that of their organisation. This situation matches with the results of our study on the EU SSR Policy and Value Dilemmas. Reportedly, as mentioned earlier, on the one hand, high-level policy-makers in the EC are inclined to subdue ethical values to certain political interests in order to solve complex issues. On the other hand, EC officers reporting to a supervisor do not usually raise ethical problems or have the opportunity to reflect on ethical values.

Security professionals believe that their job has strong ethical and moral connotations, as they see it as a means to fight evil/disorder so as to achieve good/a fair order. Their self-reflection is therefore not the result of an objective analysis on the needs of society and the most effective long-term responses to address them, in light of consolidated ethical principles, but rather the consequence of irrational thinking.

In light of this, security professionals admit that threats such as violent extremism or uncontrolled migration flows have been amplified by the media and manufactured for the sake of national political elites. However, they also tend to believe in the existence of such threats. Indeed, officers do not see any harmonious relationship between the objectives of security policies and the interests of extremists and migrants, but rather a permanent conflict. Besides, since they consider politicians and media as of no assistance in tackling the security threats in question, they imagine themselves as the only ones who can do it. Unsurprisingly, they also think that more than economic reasons, the lack of a clear cohesive drive within society is at the basis of the rise of violent extremism. In this context, security professionals believe in the exceptionality of the policies they are mandated to implement. The latter tend to be considered as ethically acceptable, in light of the risks connected to inaction. Security professionals act therefore according to a 'preventive logic'.

In this framework, technology may then offer useful tools to settle moral and ethical dilemmas arising out from the adoption of precautionary tactics and methods against *external* threats. Extremists, terrorists and uncontrolled flows of migrants are considered as external threats to the internal social order, under a clear *us vs. them* rationale.

The EU and its Agencies' ethical role in dealing with controversial security practices is undisputed. Security professionals recognise the Union and its Agencies as international actors which can more or less successfully combine ethical values such as humanity, social justice, impartiality and transparency, with efficiency, expertise and integrity, in the implementation of the practices in question.

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LIST OF INTERVIEWEES

1. Interviews conducted by Dr. Isabelle Ioannides

Mr. Avni Alidemaj, Deputy Director, Community Building Mitrovica, Mitrovica

Ms. Hanneke Brouwer (police officer), Specialist Criminal Investigations Department, Netherlands Police Agency, Driebergen

Mr. Stephen Burfitt (police officer), Police Liaison Officer, EULEX Kosovo, Brussels Support Element, General Secretariat, Council of the European Union, Brussels

Mr. Peter Callens (police officer), Police Superintendant, Directorate International Police Cooperation, Belgian Federal Police, Brussels

Mr. Artan Collaku, Senior Officer for Coordination of Development and European Affairs (RoL Task Manager), Kosovo Ministry of European Integration, Pristina

Ms. Maria Derks, Research Fellow, Conflict Research Unit, Clingendael – Netherlands Institute for International Relations

Ms. Daniela Dicorrado Andreoni, Head of Sector Peace and Security, Directorate General Development, European Commission, Brussels

Mr. Patrick Doelle, Administrator, EuropeAid Cooperation Office, European Commission, Brussels

Ms. Silvia Eckert, Policy Advisor, Justice Component, EU Rule of Law Mission in Kosovo – EULEX, Pristina

EULEX Lawyer, Justice Component, EU Rule of Law Mission in Kosovo – EULEX, Pristina

EULEX Prosecutor, Justice Component, EU Rule of Law Mission in Kosovo – EULEX

EULEX Security (police officer), EU Rule of Law Mission in Kosovo – EULEX, Pristina

Former Political Advisor to Kosovo Minister of Justice, Pristina

Ms. Yvonne Gogoll, Team Leader Rule of Law/Operations Section, European Commission Liaison Office to Kosovo – ECLO, Pristina

Mr. Milos Golubovic, Project Assistant, Community Building Mitrovica, Mitrovica

Head of Unit, General Secretariat, Council of the European Union, Brussels

Dr. Lukas Holub, Policy Officer, Unit C3 - Kosovo Issues, DG Enlargement, European Commission, Brussels

Mr. Ramadan Ilazi, Executive Director, Levizja FOL, Pristina

Mr. Oliver Ivanovic, State Secretary, Ministry for Kosovo and Metohija, Republic of Serbia, Mitrovica

Mr. Krenar Gashi, Research Director, Kosovar Institute for Policy Research and Development – KIPRED, Pristina

Mr. Rolf Landgren (police officer), Police Adviser, Civilian Planning and Conduct Capability, General Secretariat, Council of the European Union, Brussels

Lieutenant (military personnel), Kosovo Force – KFOR, NATO, Mitrovica

Ms. Mari Linnapuomi, Administrator (SSR Focal Point), Mission Support Unit, Civilian Planning and Conduct Capability CPCC, General Secretariat, Council of the European Union, Brussels

Mr. Arben Kalaja, Director, Department of Governance, Kosovo Ministry of European Integration, Pristina

International Trainer (police officer), Kosovo Centre for Public Safety Education and Development (KCPSED), Department for Security and Public Safety (DSPS), Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Vushtrri

Local Trainer (police officer), Kosovo Centre for Public Safety Education and Development (KCPSED), Department for Security and Public Safety (DSPS), Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Vushtrri

Ms. Edit Kovacs, Policy Advisor, Customs Component, EU Rule of Law Mission in Kosovo – EULEX, Pristina

Mr. Nenad Maksimovic, Board Director, Centre for Peace and Tolerance, Gracanica

Mr. Michel Marie (police officer), Police Expert, EuropeAid Cooperation Office, European Commission, Brussels

Official, DG Development & Relations with ACP States, Unit C2: Pan African Issues and Institutions, Governance and Migration, European Commission, Brussels

Official, DG External Relations, European Commission, Brussels

Official 1, Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Pristina

Official 2, Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Pristina

Official 1, Department for Security and Public Safety (DSPS), Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Pristina

Official 2 (border police), Department for Security and Public Safety (DSPS), Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, Pristina

Official, International Civilian Office/European Union Special Representative, Mitrovica

Official 1, Legal Unit, International Civilian Office/European Union Special Representative, Pristina

Official 2, Legal Unit, International Civilian Office/European Union Special Representative, Pristina

Official 1, Political Affairs Unit, International Civilian Office/European Union Special Representative, Pristina

Official 2, Political Affairs Unit, International Civilian Office/European Union Special Representative, Pristina

Official 1, Community Affairs Unit, International Civilian Office/European Union Special Representative, Pristina

Official 2, Community Affairs Unit, International Civilian Office/European Union Special Representative, Pristina

Mr. Dominique Orsini, Chief Policy Advisor, EU Rule of Law Mission in Kosovo – EULEX, Pristina

Permanent Representative, Permanent Representation to the European Union, Brussels

Official, Permanent Representation of the Republic of Cyprus to the European Union, Brussels

Mr. Romuald Pichard, Regional Coordinator (North), EU Rule of Law Mission in Kosovo – EULEX, north Mitrovica

Police Component, EU Rule of Law Mission in Kosovo – EULEX, Pristina

Dr. Gerrard Quille, Policy Advisor, Directorate-General External Policies Policy Department, Sub-Committee on Security and Defence, European Parliament, Brussels

Mr. Timo Ranta, Administrator, DGE IX: Civilian Crisis Management, General Secretariat of the Council of the European Union, Brussels

Research Fellow, Conflict Research Unit, Clingendael – Netherlands Institute for International Relations, The Hague

Mr. Alessandro Rotta, Policy Advisor, EU Rule of Law Mission in Kosovo – EULEX, Pristina

Rule of Law Programme Officer, European Commission Liaison Office to Kosovo – ECLO, Pristina

Mr. Michel Savary (French gendarme), Police Expert, Unit 1: Horizontal issues, DGE IX: Civilian Crisis Management, General Secretariat of the Council of the European Union, Brussels

Mr. Corrado Scognamillo, EuropeAid Cooperation Office, European Commission, Brussels

Mr. Alex Standish, UNDP Programme Manager for Returns, UNDP Office in Kosovo, Pristina

Mr. Aleksandar Stojanovic, Member (human rights monitor), Centre for Local Environmental Development, Mitrovica

Mr. Sorin Sterie, Senior Advisor to the Secretary General, Head of Department for Security, Defence, Justice and Home Affairs Policies, Liaison Office in Brussels, Regional Cooperation Council, Brussels

Mr. Joaquín Tasso Vilallonga, SSR Focal Point, RELEX A2: Crisis Response and Peace Building Unit, Directorate General External Relations, European Commission, Brussels

Mr. Louis Telemachou, Representative to the PSC, Permanent Representation of the Republic of Cyprus to the European Union, Brussels

UNDP Programme Manager (seconded to Kosovo Prime Minister's Office), UNDP Office in Kosovo, Pristina

UNDP Programme Manager (seconded to Kosovo Ministry of Internal Affairs), UNDP Office in Kosovo, Pristina

Mr. Wouter Van De Rijt, Principal Administrator, Justice and Home Affairs/ External Relations, DG JAI, General Secretariat, Council of the European Union, Brussels

Mr. Vesnik Vasolli, Advisor to Kosovo Minister of Internal Affairs, Pristina

Mr. Alessio Zuccarini (police officer), Head of Programmes, EU Rule of Law Mission in Kosovo – EULEX, Pristina

2. Interviews conducted by Dr. Matteo Tondini

Anonym 1, Policymaker, Ministry of the Interior and Kingdom Relations

Anonym 2, Policymaker, Ministry of the Interior and Kingdom Relations

Anonym 3, Intelligence Officer, General Intelligence and Security Service (AIVD)

Anonym 4, Senior Police Officer, Metropolitan Police, Channel Project, SO 15 CTC, London

Anonym 5, DSI Officer 1, Team Member

Anonym 6, DSI Officer 2, Sniper

Anonym 7, DSI Officer 3, Technical Operator

Anonym 8, DSI Officer 4, Team Leader

Anonym 9, DSI Officer 5, Senior Intervention Specialist

Anonym 10, DSI Officer 6, Operator

Anonym 11, DSI Officer 7, Office for Operations

Brig. Gen. André A. Peperkoorn, Director of Operations, Koninklijke Marechaussee

Chief Inspector Richard Moore, Counter-Terrorism Prevent Manager, West Midlands Police, Birmingham

Detective Chief Inspector Paul Marriott, Programme Manager, Preventing Violent Extremism Unit, Birmingham City Council (seconded from West Midlands Counter Terrorism Unit)

Dr Ger Scheffer, Policy Advisor, Police Cooperation and Domestic Affairs, Embassy of the Kingdom of the Netherlands in Brussels

FRONTEX Officer 1, Senior Officer, Capacity Building Division

FRONTEX Officer 2, Senior Officer, Executive Support

FRONTEX Officer 3, Senior Officer, Operations Division

FRONTEX Officer 4, Senior Officer, Research and Development

FRONTEX Officer 5, Senior Officer, Operations Division

FRONTEX Officer 6, Senior Officer, Risk Analysis

Inspector Barbara van Caem, Policy Advisor, Politie Amsterdam-Amstelland

Inspector Tom Galbraith, Contest Prevent Coordinator, Safer Communities Department, Lothian and Borders Police, Edinburgh

Lt. Col. Dennis Hardenbol, Commander, Brigade Speciale Beveiligingsopdrachten (BSB – Special Operations Brigade), Royal Netherlands Marechaussee

Lt. Col. Ikol Willem Koops, Head, C-SIOG (Sector Internationaal Optreden & Geweldsbeheersing), Police Academy of the Netherlands; Former Deputy Head, DSI - Dienst Speciale Interventies (Special Intervention Service), Koninklijke Marechaussee

Lt. Gen. Minze Atte Beuving, Former Commander in Chief, Koninklijke Marechaussee

Mr Armando Spataro, Anti-Terrorism Prosecutor, Office of Public Prosecutor, Milan

Mr Auke J. van Dijk, Policy Advisor, Dienst Algemene Ondersteuning, Agora Politie & Veiligheid, Amsterdam-Amstelland Police

Mr Ed Hogervorst, Head of Anti-Terrorism Programme, Amsterdam-Amstelland Police

Mr Filippo Focardi, Deputy Prosecutor, Office of Public Prosecutor, Siracusa, Italy

Mr Gino Barsella, Head of Country Mission, CIR Libya

Mr Ilkka Laitinen, Executive Director, FRONTEX

Mr Ivo Ottens, Policy Advisor, National Coordinator for Counterterrorism (NCTb)

Mr Michael Kowalski, Strategic Analyst, Expertise and Analysis Department, National Coordinator for Counterterrorism (NCTb)

Mr Michel Bravo, Senior Policy Advisor (*Strateeg*); Director, Immigration Policy Department, Ministry of Justice

Mr Nick Croft, Project Coordinator, Scottish Preventing Violent Extremism Unit, Edinburgh

Mr Pieter Jan van Slooten, Policy Advisor, Bestuursdienst, Directie Openbare Orde en Veiligheid, Geemente Amsterdam

Mr Sander Luijsterburg, Senior Policy Advisor, Migration Policy Department, Ministry of Justice

Mr Satko Mujagic, Policy Advisor, Directorate for Implementation and Policy Immigration and Naturalisation Service (IND), Ministry of Justice

Mr Tom Driessen, Deputy Director and Head of Operations Department, EUROPOL

Mr Vito Monetti, Deputy General Prosecutor, Court of Cassation, Rome

Ms Liesbeth H. Bos, Policy Advisor, Immigration Policy Department, Ministry of Justice

Ms Litizia Lemmer, Senior Policy Advisor, Migration Policy Department, Ministry of Justice

Ms Saskia Tempelman, Deputy Manager, Program Polarisation and Radicalisation, Department of Safety and Governance, Ministry of the Interior and Kingdom Relations

Ms Zubeda Limbada, Project Manager, Preventing Violent Extremism Unit, Birmingham City Council

Prof. Stavros Zouridis, Professor of Governance and the Rule of Law, Tilburg University, Former Director, Strategy Office, Ministry of Justice

Superintendent George Denholm, Project Coordinator, Scottish Preventing Violent Extremism Unit, Edinburgh

Vice Questore Aggiunto Tiziana Liguori, Directorate for Immigration and Border Police, Ministry of Interior

RECORD OF ACTIVITIES OF RESEARCHERS AND SUPPORT STAFF EMPLOYED BY WP3

1. Dr. Isabelle Ioannides' Activities

Publications

EU Civilian Capabilities and Cooperation with the Military Sector. In S. Silvestri and N. Pirozzi (eds.) *EU Crisis Management: Institutions and Capabilities in the Making*. Rome: Instituto Affari Internazionali (IAI) (forthcoming, autumn 2010).

"European Policebuilding: Exporting Security or Securing Peace?" (to be submitted to *Security Dialogue*)

"Values-Interests Nexus: Ethical Dilemmas in the EU Security Sector Reform Policy" (to be submitted to *Journal of European Integration*)

"Internal-External Security Nexus: A Stumbling Block to EU Police Missions in the Western Balkans" (co-authored with Gemma Collantes Celador) (to be submitted to *Conflict, Security and Development*)

"Book Review: The Liberal Peace and Post-War Reconstruction: Myth or Reality?, edited by Roger MacGinty and Oliver Richmond, Routledge (London, 2009), 124 pp., IBSN: 978-0-415-42926-3", *International Peacekeeping* (forthcoming, autumn 2010).

"Book Review: Democratisation and the Prevention of Violent Conflict: Lessons Learned from Bulgaria and Macedonia, by Jenny Engstrom, Ashgate (Surrey, UK, 2009), 190 pp., IBSN: 978-0-7546-7434-4", *The Cyprus Review* 22:1, spring 2010, pp. 197-198.

"European Union Security Sector Policy: What Added Value?" *Eyes on Europe*, December 2009, p. 37-39.

EUPOL Proxima and EUPAT (fYROM). In G. Grevi, D. Helly and D. Keohane (eds) (2009) *European Security and Defence Policy: The ten first years (1999-2009)*. Paris: European Union Institute for Security Studies, 2009, pp. 187-200.

Presentations/Lectures

"Internal-External EU Security Nexus: A Stumbling Block to EU Police Missions in the Western Balkans" (with Gemma Collantes Celador). Paper presented in the panel "Beyond Case-By-Case Analysis: Making Sense of ESDP Operationality" at the UACES Annual Conference "Exchanging Ideas on Europe" Bruges 2010, in Bruges, 6-8 September 2010.

"From EU policing to SSR: Ethical Implications of Harderning EU Security". Abstract accepted for the "Session 3: Governing the Future? Security, Pro-activity, Profiling and Prevention/Critical Approaches to Security in Europe" of the of the ECPR SGIR 7th Pan-European International Relations Conference titled "Politics in a Hard Time: International Relations Responses to the Financial Crisis: Seventh Pan-European Conference on International Relations", in Stockholm, 9-11 September 2010.

"International Co-operation and Security Matters: Europe's Role". Invited Speaker in the seminar titled "EU-Afghanistan Relations", Press Visit for Afghan Journalists to DG RELEX, European Commission. Organised by the European Journalism Centre, in Brussels, 28 June 2010.

"Democratic Culture in a Diverse Society". Invited Speaker and Session Facilitator at the seminar entitled "Benefits, Opportunities and Challenges for a Reunited Cyprus" of the European Forum Cyprus. Organised by the Council of Europe and the Istituto Affari Internazionali (IAI) and co-funded by the European Commission, in Rome, 27-30 May 2010.

"EU Security Sector Reform: Evolving Roles and Shifting Values in the European Institutions". Paper presented at the INEX Conference "Ethical Dilemmas in the Shifting Security Landscape". Organised by the VU University Amsterdam, in Amsterdam, 15-16 April 2010.

"Post-Conflict Policing in the Western Balkans". Lecture for FCO/British Council Chevening course in "Peacekeeping and International Capacity-Building", in Bradford, 16 March 2010.

"The EU and the Rule of Law". Paper presented at the INEX Project Conference "Issues of CFSP/ESDP in the European Borderlands", Institute for European Studies, in Brussels, 11 February 2010.

Invited Discussant on the panel "The EU, the Western Balkans and Turkey" of the conference titled "Setting EU Priorities beyond Lisbon". Organised by the European Strategy Forum, in Viana do Castelo, 7-9 January 2010.

"Ethical Dilemmas in the EU Security Sector Reform Policy". Paper presented at the INEX Project Mid-Term Conference: "Exploring the Internal/External Security Continuum", Centre for European Policy Studies (CEPS), in Brussels, 29 October 2009.

Participation in and Chairing of Conferences

Participation in the EFSPS Final Conference 2010 entitled "EU Foreign and Security Policy Choices: Implementing the Lisbon Treaty". Organised in the framework of the research and training programme jointly developed by Compagnia di San Paolo, Turin/Italy, Riksbankens Jubileumsfond, Stockholm/Sweden, Volkswagen Stiftung, Hanover/Germany, in Turin, 23-25 September, 2010.

Chair of session "INEX Workshop: Value Dilemmas in Security Policing: The EU Internal Security Architecture" at the INEX Conference "Ethical Dilemmas in the Shifting Security Landscape". Organised by the VU University Amsterdam, in Amsterdam, 15-16 April 2010.

Participation in Round Table Seminar entitled "From The Hague to Stockholm: the Future of EU's Internal Security Architecture and Police Cooperation", organised by the Clingendael Institute, The Hague, 30 September 2009.

Participation in CEPOL Police Science Conference 2009 entitled "Future Policing in Europe: A Shared Agenda for Research", in Badhoevedorp (Amsterdam), on 18-20 November 2009.

Chair of Workshop Session IV in conference entitled "Challenges for European Security 2020", organised by the research and training programme "European Foreign and Security Policy Studies", jointly developed by the foundations Compagnia di San Paolo, Turin/Italy, Riksbankens Jubileumsfond, Stockholm/Sweden, and VolkswagenStiftung, Hanover/Germany, in cooperation with Centre for European Research, in Gothenburg, on September 24-26 2009.

Research Dissemination & Media Work

Telephone interview on "The Potential of Crisis Management in Ethnic Conflict" to *Gulan* weekly magazine (www.gulan-media.com), in northern Kurdistan, Iraq, on 12 January 2010.

Interviewed by the Joint UN-EC Election Observation Task force on "The Role of Parliaments in Security Sector Reform in Conflict-Torn Environments". The interview is available in English and French on the portal www.agora-parl.com, United Nations Development Programme (UNDP), in Brussels, on 14 January 2010.

Interviewed by Mr. Kosuke Kawamura, Centre for German and European Studies, The University of Tokyo on "The European Union and Democratisation Efforts in Macedonia and Kosovo", Vrije Universiteit Amsterdam, in Amsterdam, on 16 August 2010.

2. Dr. Matteo Tondini's Activities

Publications

Tondini, M. (2010) *Statebuilding and Justice Reform: Post-Conflict Reconstruction in Afghanistan*. Abingdon: Routledge, Cass Series on Peacekeeping.

Tondini, M. (2010) Fishers of Men? *The Interception of Migrants in the Mediterranean Sea and Their Forced Return to Libya* (submitted for publication as an INEX Focus Paper – forthcoming at www.inexproject.eu).

Tondini, M. (2010) 'Case Note: Corte di Cassazione (Sez. I Penale), 3 October 2008, No. 37606 (Criminal Proceedings against Heinrich Nordhorn)', *Italian Yearbook of International Law*, 2009:19 (forthcoming).

Tondini, M. (2010) 'The "Italian Job": How to Make International Organisations Compliant with Human Rights and Accountable for Their Violation by Targeting Member States', in J. Wouters, E. Brems, S. Smis and P. Schmitt (eds.), *Accountability of International Organisations for Human Rights Violations*. Antwerp/Oxford: Intersentia (forthcoming).

Tondini, M. (2010) 'Sulla nuova disciplina giuridica delle missioni militari italiane all'estero', *Quaderni costituzionali*, 30:2, 401-404.

Presentations and Lectures

Evoluzione delle normative nazionali in risposta al terrorismo, Italian Red Cross, 30th National Training Course for International Humanitarian Law Instructors, Jesolo Lido (Italy), 13 July 2010

State-building between Dreams and Reality: Preaching and Practicing Post-Conflict Reconstruction in Afghanistan, Workshop: 'Responsibility 2 Rebuild: Linking Infrastructure, Governance & Democratisation', University of Surrey (UK), Institute of Advanced Studies, 18-19 June 2010 (presented a paper).

Ethics in EU Member States' Security Policies, INEX Conference: 'Ethical Dilemmas in the Shifting Security Landscape', VU University Amsterdam, 15-16 April 2010.

Forced Return of Migrants by Italian Vessels in the Mediterranean Sea, Seminar on Migration Law and Human Rights, Bergen aan Zee, The Netherlands, 21-22 January 2010 (presented a paper).

Private Military Companies, VU University Amsterdam, Faculty of Law, Masters Course in International Humanitarian Law, 3 December 2009.

Shifting Ethical Dilemmas in National Security Practices, INEX Project Mid-Term Conference: 'Exploring the Internal/External Security Continuum', Centre for European Policy Studies (CEPS), Brussels, 29 October 2009 (presented a project proposal).

APPENDICES

- Ioannides' Questionnaire in English

- Ioannides' Questionnaire in French

- Ioannides' Survey in English

- Ioannides' Survey in French

- Ioannides' Consent Form

- Tondini's Questionnaire

- Tondini's Transcript of interview with Mr. Ilkka Laitinen

PROJECT:
Ethical Dilemmas in the Design and Implementation of the EU Security Sector Reform Policy

In the context of EU FP7 Project INEX:
Converging and Conflicting ethical values in the internal/external security continuum in Europe

Questionnaire

Aim of Research

The aim of the questionnaire "Ethical Dilemmas in Externalising EU Internal JHA Security: The EU Security Sector Reform Policy" is fourfold:
(1)   To understand how political agendas among the different EU internal and external policies (development vs. peacebuilding vs. security) are accommodated during the planning, designing and launching of a mission/ programme.
(2)   To examine whether ethical considerations or values play a role in the planning, designing and launching of a mission/ programme;
(3)   To gain an insight in which values matter, if any;
(4)   To understand how interests and values are played out in practice during the planning, designing and launching of a mission/ programme.

By (organisational) values we mean the important standards and qualities that have a weight in the decisions and actions of organisations (or part of an organisation) for which you are (partly) responsible. We are interested in which values you think are the most important.

General Questions – Political Agenda of Pillars

1. Is there formal or informal cooperation among the police cooperation (JLS) and external relations? How do the Article 36 Committee, the Police Cooperation Working Group or the 'JHA-Relex *ad hoc* support group' (JAIEX group) work with Pillar II?

2. How is the political agenda of your organisation accommodated to other parts of the EU external/internal policies (European Commission, EU crisis management) when a mission/ programme is being planned, designed and launched?

3. How is conflict or convergence between the agendas manifested?

4. How are the differences smoothed over?

5. Which agenda, if any, ends up usually having the upper hand?

** Hand out questionnaire **

General Questions – Values

6. Is there any space for ethical reflection in the design, planning and implementation of CSDP missions/ EC programmes?

7. If so, which values are the most important?

8. How important do you think these values should be?

Decisions and Values

9. Could you describe a recent example of an important organsational decision in which your Unit (or the Council General Secretariat) was involved and where value issues were raised or considered?

10. What kind of political agendas, principles or values played a role?

11. What prevailed in the end?

12. Could you try to explain why (based on which preferences) a choice was made for a certain direction and not for another one?

Ethical Dilemmas and Conflicts

We have just given attention to a number of values.

13. Can these values be in conflict with one another?

14. How does that reveal itself? Could you provide an example?

15. What do you attribute this to (inter-institutional turf wars, conflicting political agendas, personal interests of stakeholders, communication problems, time constraints, delivering 'value for money', 'getting things done')?

16. When such conflicts surface, what is the place of values (how high on the agenda are they)?

Other EU institutions

20. What values do you think are important for the other relevant EU institutions (the different DGs in the European Commission, JHA Unit in the Council, and other Units in the Council Secretariat)?

Concluding Questions

We are almost at the end of our conversation. I have an impression of what is most important in decisions and actions in your organisation. To conclude, I wonder if you could tell me *whether and to what extent there is a shared view on what is valued most in your organisation*. In other words,

21. Does the EU have a grand strategy for doing SSR? Or for peacebuilding?

22. Where does the EU, in your opinion, want to go with its SSR project and external action?

23. On what do you base this statement?

Prodding/ Missing information

24. Do you feel there is something I should have asked, but I haven't?

25. Do you have any questions for me?

26. Is there someone else in your Unit/Direction/DG that you would recommend that I speak with?

Thank you for your time and for sharing your precious insight on these issues. I greatly appreciate it. Would you like to receive a transcript of the interview for factual approval?

Chercheur:

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QUESTIONNAIRE

Veuillez classer les valeurs suivantes en fonction de leur importance dans la prise de décision et la mise en œuvre de projets soutenant la réforme du secteur de sécurité [du 1 (le moins important) jusqu'au 5 (le plus important)]

Responsabilisation / Responsabilité
[acte volontaire pour justifier et expliquer ses actions aux différents acteurs impliqués dans le processus de RSS]   1   2   3   4   5

Dédicace
[agir avec diligence, enthousiasme et persévérance]   1   2   3   4   5

Efficacité
[agir pour atteindre les résultats souhaités]   1   2   3   4   5

Rendement
[acte afin d'obtenir des résultats avec des moyens minimes]   1   2   3   4   5

Expertise
[agir avec compétence, dextérité et selon ses connaissances]   1   2   3   4   5

Impartialité
[acte sans préjugés et non biaisés par les intérêts spécifiques de certaines parties prenantes]   1   2   3   4   5

Capacité à innover
[agir avec initiative et créativité (pour inventer ou introduire de nouvelles politiques ou instruments)]   1   2   3   4   5

Légalité
[agir en conformité avec les lois et les règles en vigueur]   1   2   3   4   5

Rentabilité
[agir pour tirer profit de la situation (par exemple, sécuriser les frontières de l'UE, protéger les intérêts de l'UE, etc.)]   1   2   3   4   5

Réactivité envers les citoyens de l'UE
[agir en conformité avec les préférences des citoyens de l'UE]   1   2   3   4   5

Réactivité envers les pays tiers
[agir en conformité avec les préférences des « clients » (c.-à-d. des pays tiers)]   1   2   3   4   5

Justice sociale
[acte s'engageant à la création d'une société juste]   1   2   3   4   5

Transparence
[agir ouvertement, de façon visible et d'une manière contrôlée]   1   2   3   4   5

Autres valeurs :   1   2   3   4   5

                      1   2   3   4   5

                      1   2   3   4   5

Researcher:

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QUESTIONNAIRE

Please rate the following values according to importance from **1 (least important)** to **5 (most important)**

Accountability [act willingly to justify and explain actions to the relevant stakeholders]	1	2	3	4	5
Dedication [act with diligence, enthusiasm and perseverance]	1	2	3	4	5
Effectiveness [act to achieve the desired results]	1	2	3	4	5
Efficiency [act to achieve results with minimal means]	1	2	3	4	5
Expertise [act with competence, skill and knowledge]	1	2	3	4	5
Impartiality [act unprejudiced, unbiased by specific group interests]	1	2	3	4	5
Innovativeness [act with initiative and creativity (to invent or introduce new policies or products)]	1	2	3	4	5
Lawfulness [act in accordance with existing laws and rules]	1	2	3	4	5
Profitability [act to achieve gain (e.g. secure EU borders, interests, etc.)]	1	2	3	4	5
Responsiveness towards EU citizens [act in accordance with the preferences of EU citizens]	1	2	3	4	5
Responsiveness towards third countries [act in accordance with the preferences of 'customers' (third countries)]	1	2	3	4	5
Social Justice [act out of commitment to a just society]	1	2	3	4	5
Transparency [act openly, visibly and in a controlled manner]	1	2	3	4	5
Other values:	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5

PROJET :
Dilemmes éthiques dans la conception et la mise en œuvre du soutien à la réforme du secteur de sécurité de l'UE

Dans le cadre du Programme Cadre 7 de l'UE « Projet INEX »:
Convergences et conflits de valeurs éthiques dans le continuum de sécurité intérieure et extérieure en Europe

Questionnaire

Objectives de la recherche

L'objectif du questionnaire dans le contexte du projet de recherche intitulé : « Dilemmes éthiques dans l'externalisation de la sécurité intérieure au sein de la justice et affaires intérieures de l'UE : Le soutien à la réforme du secteur de sécurité de l'UE » est quadruple:

(1) Comprendre comment les programmes politiques entre les différentes politiques intérieures et extérieures de l'UE sont adaptés au cours de la planification, la conception et le lancement d'une mission ou d'un programme ;

(2) Examiner si des considérations d'ordre éthique ou les valeurs jouent un rôle dans la planification, la conception et le lancement d'une mission ou d'un programme;

(3) Avoir un aperçu du contexte dans lequel les valeurs ont une place dans le débat, le cas échéant;

(4) Comprendre comment les intérêts et les valeurs sont négociés au cours de la planification, la conception et le lancement d'une mission ou d'un programme.

Par le terme « valeur de l'organisation » je fais allusion aux normes et propriétés importantes et qui ont un poids dans les décisions prises et les actions mises en œuvre par des organisations (ou une partie d'une organisation) pour lesquels vous êtes (en partie) responsable. Je suis intéressée par les valeurs qui vous semblent être les plus importantes.

Questions générales – Agenda politique des piliers

1. Y a-t-il de la coopération formelle ou informelle entre les politiques internes et externes de l'UE ? Comment le Comité de l'article 36, le groupe de travail de coopération de la police et/ou le groupe *ad hoc* de soutien à la JAI-Relex (groupe JAIEX) travaillent-ils avec le deuxième pilier ?

2. Comment l'agenda politique de votre organisation est-il adapté à l'agenda d'autres parties/ politiques de l'UE (Commission européenne, gestion de crises par l'UE) quand une mission ou un programme est planifié, conçu et lancé ?

3. Comment s'exprime le conflit ou la convergence entre les agendas ?

4. Comment ces différences sont surmontées et les agendas ajustés ?

5. Quel agenda, le cas échéant, arrive généralement à avoir le dessus ?

*** Distribuer le questionnaire ***

Questions générales – Valeurs

6. Avez-vous l'occasion de réfléchir aux implications éthiques de la politique de soutien de la réforme du secteur de sécurité dans la phase de conception, planification et exécution de telles activités ?

7. Si cela est bien le cas, quelles valeurs sont les plus importantes ?

8. Quelle importance accordez-vous à ces valeurs ?

Prise de décisions et place des valeurs

9. Pourriez-vous décrire un exemple récent d'une décision organisationnelle importante prise dans votre unité (dans le Secrétariat général du Conseil ou la Commission européenne) où les considérations éthiques ont été soulevées ou prises en considération ?

10. Quels agendas politiques, principes ou valeurs ont joué un rôle ?

11. Lesquels ont prévalu à la fin ?

12. Pourriez-vous m'expliquer pourquoi (sur la base de quelles préférences) le choix a été fait en faveur d'une certaine préférence privilégiée et non pas une autre ?

Dilemmes éthiques et conflits

Nous venons de nous pencher sur un certain nombre de valeurs.

13. Ces valeurs peuvent elles être en conflit l'une avec l'autre ?

14. Comment ces conflits se révèlent-ils ? Pourriez-vous me donner un exemple concret ?

15. A quoi attribuez-vous ces conflits (pourraient-ils être le résultat de guerres intestines interinstitutionnelles, de conflits entre agendas politiques et intérêts personnels des parties prenantes, de problèmes de communication, de contraintes de temps, du besoin d'un bon rapport qualité/prix, et de l'efficacité) ?

16. Lorsque de tels conflits surfacent, quelle est la place des valeurs (à quelle hauteur de l'ordre du jour sont-elles placées) ?

Des valeurs similaires ou différentes ?

17. Pensez-vous que la plupart des décisions prises dans votre organisation soient basées sur le même ensemble de considérations éthiques et de valeurs que celles dont nous venons de parler ?

18. Si cela est bien le cas, comment sont-elles différentes ?

19. Est-ce que les considérations éthiques et valeurs diffèrent selon le contexte et/ou le sujet ?

Autres institutions de l'UE

20. Quelles valeurs pensez-vous être importantes pour d'autres unités/directions/institutions pertinentes de l'UE (par exemple, les différentes DG de la Commission européenne, la Direction JAI au sein du Secrétariat général du Conseil et d'autres unités du Secrétariat général du Conseil dans le domaines des relations extérieures) ?

Questions finales

Nous sommes presque à la fin de notre conversation. Je croie avoir une bonne impression de ce qui est le plus important dans la prise de décisions et la mise en œuvre de programmes/ activités/ missions par votre organisation. Pour conclure, je me demande si vous pourriez me dire *dans quelle mesure il existe une vision partagée sur ce qui est le plus apprécié et valorisé dans votre organisation dans le domaine du soutien de la réforme du secteur de sécurité.* En d'autres termes,

21. Est-ce que l'UE a une « grande stratégie » qui cadre son soutien à la réforme du secteur de sécurité ?... ou bien pour cadrer ses activités dans le domaine de la consolidation de la paix ?

22. A votre avis, vers quelle direction se dirige l'Union européenne, dans le contexte de son projet de soutien de la réforme du secteur de sécurité ? Où mène le projet européen dans le domaine de l'action extérieure ?

23. Sur quoi fondez-vous cette affirmation ?

Informations manquantes

24. A votre avis, il y a-t-il d'autres questions que j'aurais dû vous posées, mais que je ne l'ai pas fait ?

25. Avez-vous des questions à me poser ?

26. Avec qui d'autre pensez-vous que je devrais parler à propos de ce sujet ?

Je vous remercie pour votre temps et pour avoir partagé avec moi votre vision précieuse sur ces questions. Je vous suis très reconnaissante. Souhaitez-vous recevoir une transcription de l'interview pour vérifier l'exactitude des données et de vos propos ?

Datum	Ons kenmerk	onderwerp
22 April 2010	II/01015/rro	

Telefoon	Fax	E-mail
+31 20 598 5484	+31 20 59 86820	i.ioannides@fsw.vu.nl

Postadres: Faculteit der Sociale Wetenschappen / BWS, De Boelelaan 1081, 1081 HV Amsterdam

CONSENT FORM

The interview is conducted in the context of the EU FP7 project titled "INEX: Converging and Conflicting ethical values in the internal/external security continuum in Europe" (www.inexproject.eu). The project examines the challenges and shifting ethical considerations produced by the evolving continuum between internal and external security.

In this context, I am examining the EU's security sector reform (SSR) policy (especially the Rule of Law components). I am particularly interested in the working relationship and converging/conflicting political agendas and approaches (development vs. peacebuilding vs. security) in EU SSR, when such activities are being planned, designed and implemented. Empirically, I am examining the implementation of SSR policies in Kosovo.

The information from the interview will be used in conference papers, publications and an 'end of project report' for the European Commission. It is up to you to decide whether or not you would like to be anonymous in the study. If you chose to be anonymous, then your name, function and Unit will not appear in any of the publications. I will be the only person to have access to the transcript of the interview.

If you wish to have a copy of the transcript, I am happy to provide you with one for your information and for factual verification.

☐ **I would like to remain anonymous in this study.**

☐ **I accept for my name to appear in an Annex of the 'End of Project Report' that will be submitted to the European Commission in October 2010, as part of the agreed upon deliverables for this project.**

Signature: _____

Name: _____

Date: /   / 2010

Dr. Isabelle Ioannides
Department of Governance Studies

QUESTIONNAIRE

on Ethical Dilemmas in EU Member States' Security Practices

Introduction

This questionnaire has been set up as a part of the research carried out by Dr Matteo Tondini at the VU University Amsterdam – Department of Governance Studies, in the context of the 'INEX' Research Project. INEX is a multilateral research project funded by the European Commission under the Framework Programme VII. More information on project activities, partners and events is available at: http://www.inexproject.eu.

The INEX Project's main hypothesis is that new security practices in European countries are driven by an implicit logic of ethical values. The latter have in turn strong repercussions on the creation of a nexus between the policies adopted to tackle external and internal security threats. In this respect, the Project should initially identify and examine such ethical values and then make recommendations on how to increase the awareness of policy makers and scholars on the topic, in order to improve the efficiency and effectiveness of the security practices themselves.

In this framework, this study examines the values in question at the country level, focusing on single national security policies. More specifically, this research analyses the security professionals' conception of ethics in relation to their duties, as imposed by some new security practices recently adopted by three European countries.

Two case-studies, representing ideal examples of a major shift in the security policies of EU countries, are then considered:

1. the rescue/naval constabulary/border control operations in the Mediterranean sea – involving boat people – carried out by the Italian authorities and/or coordinated/backed by FRONTEX;

2. the policies implemented in both the Netherlands and the UK to tackle radicalization and terrorism.

The aim of this questionnaire is gathering empirical data on the security professional's view and reaction to the implementation of such practices in light of their professional ethics and personal beliefs. Please note that this research does not intend in any way to map violations of professional ethics by the interviewees.

The questionnaire has an introductive part and two additional sections specifically referred to the selected case-studies. The introductive part contains more general questions on: a) the ethical values of security professionals; b) the need for such professionals to refer to personal/professional ethics in the course of their duty; c) their opinion on the consequences of this overall shift in security practices at European and national level. The remaining two sections are explicitly dedicated to the selected case-studies and will be compiled alternatively by the interviewees, depending on their background and expertise. The aim of such sections is that of assessing the interviewees' opinion on the ethical shift resulting from the adoption of particular practices and addressing their response, according to their professional ethics and personal beliefs.

Definitions

For the purpose of this research are considered 'security professionals' state officers[1] who have a part in the adoption, dissemination, implementation and enforcement of new security practices, as well as in training and teaching legal and ethical issues related to the same practices. Belong to this category: a) military, police, intelligence officers, and their instructors/trainers; b) prosecutors, judges, state lawyers; and c) officials from the Ministries of Justice, Interior, Defence, and Foreign Affairs.

'Security practices' comprise norms, policies and measures whose adoption or implementation is directly or indirectly aimed or oriented at strengthen public security by tackling perceived threats to the public order or the free enjoyment of people's fundamental human rights – *in primis*, the right to life and physical integrity (e.g. laws, regulations and administrative measures to tackle terrorism, extremism, illegal-migration, organised crime, financial frauds, violations to individual privacy, etc.; directives issued by the police authorities or by the Ministry of Interior for public order purposes, etc.).

'Professional ethics' is conceived as a (often codified) set of guiding principles and norms a professional has to abide by and apply in the exercise of a duty, a service, or otherwise in carrying out an assignment[2]. In light of this, a security professionals' code of ethics may be defined as an official set of standards that should characterize their membership, role, tasks and performance and that would therefore influence their provision of goods or services to the public[3].

Ethics is generally seen as the reflection on morality. For a professional, it presupposes the possibility to choose between alternative courses of action, according to his/her moral values. In the absence of a choice, and thus when his/her behaviour is totally predetermined, any practical analysis on ethics or morality is precluded[4]. However, it must be noted that even when a security professional is duty-bound to execute a directive or to implement a law according to its original wording and meaning, he/she does not cease to act as a 'moral agent', as long as he/she reflects on the morality or on the ethical repercussions of his/her conduct.

In this respect, values are qualities and standards which influence the security professionals' choice of action. Accordingly, morality is a complex set of values and principles providing a framework of reference for the security professionals' ethical action. The security professionals' integrity will then reflect their choice of acting in accordance with relevant socially-accepted values, norms, and rules[5].

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[1] However, it is worth noting that one of the 'Deliverables' of our Work Package also concerns the ethical values of private security professionals.

[2] Adapted from: J.P. Burgess, 'There is No European Security, Only European Securities', 44(3) *Cooperation and Conflict* 2009, 309-328, at 314.

[3] Adapted from: J. Kleinig, *The Ethics of Policing* (Cambridge: Cambridge University Press, 1996), 234.

[4] A. Hyde-Price, 'A "tragic actor"? A realist perspective on 'ethical power Europe', 84(1) *International Affairs* 2008, 29-44, at 37.

[5] The definitions of 'values', 'morality' and 'integrity' are those in use at the VU University Amsterdam – Department of Governance Studies. They are gathered by the studies of Prof. Leo Huberts (see e.g. L.W.J.C. Huberts, *Blinde Vlekken in de Politiepraktijk en de Politiewetenschap* (Arnhem: Gouda Quint, 1997)) and Dr Zeger van der Wal (see Z. van der Wal, *Value Solidity: Differences, Similarities and Conflicts between the Organizational Values of Government and Business*, Amsterdam: VU University, 2008). Further definitions, included in the questionnaire, are largely drawn from Dr Van der Wal's study. Some of the questions also reflect those contained in the questionnaire he used during his

Privacy Statement

All the submitted <u>information and data will be treated as confidential</u> and will be collected and used only for academic research purposes at the VU University Amsterdam. They will be stored in order to prevent any loss, misuse or alteration. Only a restricted number of professional researchers will have access to the information and data you provide us. Their access is limited for data analysis and research/quality control purposes. The questionnaires will not be passed on to third parties for any reason.

Naturally, <u>we guarantee and protect your anonymity</u> and we will process and report the information and data you submit us in a way which will prevent you from being personally identified in the results of our research. Concerning our research within the INEX Research Project, your: a) name, b) affiliation, c) country of service/origin, d) category of security professionals you belong to, will be included in a list of interviewees. The latter will be enclosed to our final Project Report, which will be in turn submitted to the European Commission as the main deliverable of our Research Team. However, please note that your name or affiliation will never appear in any part of the text of our final Project Report, nor will it be associated to opinions, comments, information and data reported in whatsoever future document, <u>unless you make an explicit statement that you wish to be mentioned</u> (and also quoted in our final Project Report).

Your cooperation is voluntary at all times. You are entitled at any stage of the interview, or subsequently, to ask that part or all of the record of your interview is destroyed or deleted. Wherever reasonable and practical we will carry out such a request.

You can also answer the questionnaire only partially, even though we strongly encourage interviewees to compile the questionnaire in its entirety. You may also choose to replace your name with a pseudonym, which will be inserted as a substitute in the final Project Report. This will not affect our duties of confidentiality concerning the remaining information and data you provide us and, obviously, in this case you are not requested to sign this statement. The information and data (as well as your name) which you decide to not provide us will not be acquired in other ways nor will be included in any result of our research. Nevertheless, please note that we may decide to not take into account incomplete questionnaires or documents lacking information we deem fundamental for our research.

For any question regarding the questionnaire or in order to obtain clarifications on the contents of this privacy statement, please contact:

- Dr Matteo Tondini, Post-Doctoral Researcher, VU Amsterdam, Department of Governance Studies – Tel. +31 (0)20 59 84048 – m.tondini@fsw.vu.nl;

- Prof. Monica den Boer, Professor in Comparative Public Administration and International Police Cooperation, VU Amsterdam, Department of Governance Studies - mgw.den.boer@fsw.vu.nl.

By signing below you agree that you have read and understood this privacy statement and the terms and conditions included in it.

Signature   _____

Place & Date   _____

fieldwork activities. The author wishes to express his gratitude to Dr Van der Wal for the tips and advice received during the preparation of this questionnaire.

Personal Information

Title/Rank:

Family Name:

First Name:

Institution/Organization:

Position:

Category of Security Professional:

(E.g. military, intelligence, police officer; prosecutor; MoJ official, etc. – <u>Please see p. 2 'Definitions'</u>)

Contact Details

Work Address:

Telephone: *E-mail(s):*

Section 1 (General) – Ethical Values of Security Professionals

1.1   *Do you have to follow a code of ethics/discipline/conduct in performing your duties, as adopted by the institution/organization you belong to?*   Yes/No

1.2   *Please give a grade from 1 (irrelevant) to 5 (essential) to each of the values contained in the following list, depending on their importance in performing your duties.*

Accountability
(i.e. justifying and explaining actions to relevant stakeholders)

Courage
(i.e. acting with mental or moral strength to resist opposition, danger or hardship)

Efficiency
(i.e. achieving results with minimal efforts)

Expertise
(i.e. acting with competence, skills and knowledge)

Honesty
(i.e. acting with uprightness of character or action, refusing to lie, steal or deceive)

Humanity
(i.e. being benevolent, having a disposition to do good)

Impartiality
(i.e. acting not partially, treating or affecting all equally)

Integrity
(i.e. acting in accordance with relevant socially-accepted values, norms, and rules)

Obedience
(i.e. complying with rules, policies and directives received by your superiors or applied within your institution/organization)

Reliability
(i.e. acting in a trustworthy and consistent way)

Social Justice
(i.e. acting with the aim of promoting equality within the society)

Transparency
(i.e. acting openly and visibly, in a way which allows the control of your performance)

1.3   Are there other values which you deem important in performing your duties?   Yes/No

If yes, please explain:

1.4   Please indicate which of the values contained in the following list are also included in your code of ethics/discipline/conduct
(In case you are not bound by a code, please skip the question)

Accountability
(i.e. justifying and explaining actions to relevant stakeholders)   ☐

Courage
(i.e. acting with mental or moral strength to resist opposition, danger or hardship)   ☐

Efficiency
(i.e. achieving results with minimal efforts)   ☐

Expertise
(i.e. acting with competence, skills and knowledge)   ☐

Honesty
(i.e. acting with uprightness of character or action, refusing to lie, steal or deceive)   ☐

Humanity
(i.e. being benevolent, having a disposition to do good)   ☐

Impartiality
(i.e. acting not partially, treating or affecting all equally)   ☐

Integrity
(i.e. acting in accordance with relevant socially-accepted values, norms, and rules)   ☐

Obedience
(i.e. complying with rules, policies and directives received by your superiors or applied within your institution/organization)   ☐

Reliability
(i.e. acting in a trustworthy and consistent way)   ☐

Social Justice
(i.e. acting with the aim of promoting equality within the society)   ☐

Transparency
(i.e. acting openly and visibly, in a way which allows the control of your performance)   ☐

1.5 *Has your institution/organization become more demanding in respect of any of the following values in the last ten years?*
(Please tick the boxes you deem relevant. In case your code has been reformed/adopted within this period, please refer to the values included in it).

Accountability
(i.e. justifying and explaining actions to relevant stakeholders)
☐

Courage
(i.e. acting with mental or moral strength to resist opposition, danger or hardship)
☐

Efficiency
(i.e. achieving results with minimal efforts)
☐

Expertise
(i.e. acting with competence, skills and knowledge)
☐

Honesty
(i.e. acting with uprightness of character or action, refusing to lie, steal or deceive)
☐

Humanity
(i.e. being benevolent, having a disposition to do good)
☐

Impartiality
(i.e. acting not partially, treating or affecting all equally)
☐

Integrity
(i.e. acting in accordance with relevant socially-accepted values, norms, and rules)
☐

Obedience
(i.e. complying with rules, policies and directives received by your superiors or applied within your institution/organization)
☐

Reliability
(i.e. acting in a trustworthy and consistent way)
☐

Social Justice
(i.e. acting with the aim of promoting equality within the society)
☐

Transparency
(i.e. acting openly and visibly, in a way which allows the control of your performance)
☐

1.6 *Are there other values on which your institution/organization has particularly focused in the same period of time?*   Yes/No

If yes, please explain:

1.7 In your opinion, what is(are) the reason(s) at the basis of this special attention paid by your institution/organization on such values in recent times?
(Please, skip the question if you have not indicated at least one 'yes' in Questions Nos. 1.e and 1.f)

Please explain:

1.8 Do you think that professional ethics (also as developed in codes) is useful in performing your duties or in accomplishing your tasks?   Yes/No

Please explain:

1.9 Do your personal moral beliefs influence your conduct in your professional activities?   Yes/No

Please explain:

1.10 Have you ever noted the existence of a conflict between the ethical values promoted by your institution/organization and its activities?   Yes/No

Please explain (optional):

1.11 Have you ever experienced a conflict between your moral beliefs and your institution/organization's activities?   Yes/No

If yes, has this happened to you often?   Yes/No

If yes, what is this due to?

Please explain:

1.12 *In case of conflict between your moral beliefs/ethical values and your*   Yes/No
      institution/organization's activities, is there room to discuss possible derogations
      or changes with your superiors?

Please explain:

PLEASE RESPOND <u>ONLY TO ONE</u> OF THE FOLLOWING SECTIONS, ACCORDING TO YOUR EXPERTISE

Section 2 – Rescue/Naval Constabulary/Border Control Operations in the Mediterranean Sea – Involving Boat People – Carried Out by the Italian Authorities and/or Coordinated/Backed by FRONTEX

In May 2009, following the adoption of the 'Treaty on Friendship, Partnership and Cooperation' between Italy and Libya, the two countries strengthened their cooperation in the field of maritime rescue operations, illegal immigration and border control. As a result, migrants found in international waters are now returned to Libyan ports and assisted on site. According to the Italian Ministry of Interior, to date, at least 1,000 immigrants have been returned to Libya. Reportedly, some assistance in the operations has been provided by FRONTEX. Support for such operations has been also expressed by the FRONTEX vice-director. According to the Conclusions of the October 2009 European Council, the EU Agency for Border Control will soon enhance its operational capacities in the fight against illegal immigration. In addition, the Council has now formally asked the European Commission to 'intensify the dialogue with Libya on managing migration and responding to illegal immigration, including cooperation at sea, border control and readmission'.

2.1   What are, in your opinion, the policy objectives of this security practice?
(Please tick the boxes you deem relevant)

Strengthening security of Italian/European citizens ☐

Preventing the arrival of uncontrolled migration flows to the Italian/European coasts ☐

Fighting the smuggling of migrants ☐

Fighting human trafficking ☐

Rescuing people in distress at sea ☐

Enhancing state/EU control over Mediterranean sea-lanes ☐

Extending state/EU influence towards Northern African states ☐

Testing the efficiency of FRONTEX ☐

Preventing the economic breakdown and the uncontrolled social consequences deriving from the arrival of boat people ☐

Fighting domestic crime ☐
(Immigrants could easily turn into criminals once landed on the Italian/European coasts)

2.2   Is there any other policy objective?   Yes/No

If yes, please explain:

2.3 What are, in your opinion, the interests of immigrants?
(Please tick the boxes you deem relevant)

Improving their economic conditions ☐

Saving their own lives ☐

Escaping persecutions ☐

Fleeing war or other violence in their home countries ☐

Improving their social conditions ☐

Working underpaid in order to make money more rapidly ☐

Exporting their culture of origin abroad ☐

Doing any kind of job, including illegal or criminal activities, in order to make money ☐

Transferring money back in their countries of origin ☐

Integrating into local societies ☐

2.4 Is there any other interest immigrants may have?   Yes/No

If yes, please explain:

2.5 Can you link some of the policy objectives reported in Questions Nos. 2.1 & 2.2   Yes/No
with some interests of immigrants (as contained in Questions Nos. 2.3 & 2.4)?

If yes, please list up to 3 links
(e.g. Preventing the arrival of uncontrolled flows of immigrants ↔ Saving immigrants' lives)

2.6   *According to your experience or expertise, what are the ethical values that security professionals should respect in carrying out the operations in question?*
(Please tick the boxes you deem relevant)

Accountability
(i.e. justifying and explaining actions to relevant stakeholders)   ☐

Courage
(i.e. acting with mental or moral strength to resist opposition, danger or hardship)   ☐

Efficiency
(i.e. achieving results with minimal efforts)   ☐

Expertise
(i.e. acting with competence, skills and knowledge)   ☐

Honesty
(i.e. acting with uprightness of character or action, refusing to lie, steal or deceive)   ☐

Humanity
(i.e. being benevolent, having a disposition to do good)   ☐

Impartiality
(i.e. acting not partially, treating or affecting all equally)   ☐

Integrity
(i.e. acting in accordance with relevant socially-accepted values, norms, and rules)   ☐

Obedience
(i.e. complying with rules, policies and directives received by your superiors or applied within your institution/organization)   ☐

Reliability
(i.e. acting in a trustworthy and consistent way)   ☐

Social Justice
(i.e. acting with the aim of promoting equality within the society)   ☐

Transparency
(i.e. acting openly and visibly, in a way which allows the control of your performance)   ☐

Comments (optional):

2.7   *Do you see any difference or potential conflict between the values selected in Question No. 2.6 and those promoted by your institution/organization?*   Yes/No

Please explain:

2.8   *Do you see any difference or potential conflict between the values selected in*   Yes/No
        Question No. 2.6 and your personal moral values?

        Please explain:

2.9   *Is it possible for you to discuss the conflicts you mentioned in Questions Nos. 2.7*   Yes/No
        and 2.8 within your institution/organization? Generally, do you think that your
        institution/organization's leadership would be responsive to instances
        concerning ethical dilemmas generated by this particular security practice?

        Please explain:

2.10 *Do you think that the use of technology in naval constabulary operations may be*   Yes/No
        useful in settling possible ethical dilemmas for security professionals?
        (Informatics and electronics may help in taking decisions, avoiding any further consideration)

        <u>If yes</u>, when does it happen?
        (Please tick the boxes you deem relevant)

        In discovering people in distress at sea   ☐

        In identifying immigrants   ☐

        In tracking previous attempts of immigrants to enter Europe   ☐

        In repatriating immigrants to their countries of origin   ☐

        In establishing competencies of different Mediterranean countries in SAR   ☐
        activities

        In identifying possible asylum seekers or people enjoying a protected status   ☐

        In searching and rescuing immigrants in a more effective way   ☐

        In dealing effectively with practices of assistance to immigrants   ☐

        Please report any other situation you deem relevant (optional):

If not, please explain:

2.11   *Is the support made available by the European Union through FRONTEX useful in*   Yes/No
        dealing with possible ethical dilemmas generated by this kind of security
        practices?
        (e.g. if the EU is involved, such practices may be considered 'ethical' at all...)

        Please explain:

2.12   *As mentioned above, the European Union is attempting to establish permanent*   Yes/No
        relationships with Libya in order to tackle the issue of boat people attempting to
        land on the European coasts. Will this policy be essential in meeting the aims and
        objectives of the mission?

        Please explain:

2.13   *How would you explain the adoption of such a security practice?*
        (Please tick the boxes you deem relevant)

        It is an exceptional measure due to the magnitude of the phenomenon and the   ☐
        risk of further uncontrolled migration flows

        It is an exceptional measure due to the current economic crisis in Europe   ☐

        It is an exceptional measure due to the current crisis of European societies,   ☐
        which are incapable of absorbing new migration flows

        It is an exceptional measure due to the need of maintaining order and security in   ☐
        Italy/Europe

        It is a common security practice undertaken in the context of ordinary state   ☐
        powers

        It is a security practice which (at least partially) responds to the domestic   ☐
        political interests of national leaderships

        It is the sign that we are moving towards a progressive 'normalization' of   ☐
        exceptional security practices

Media have favoured/encouraged its adoption ☐

Media have had a major role in the adoption of such a security practice ☐

It is a security practice dropped in from on high ☐

Other (please explain): ☐

2.14   *Has the adoption of this security practice had direct or indirect consequences on*   Yes/No
your professional duty (including your motivations, interests, affection, etc.)?

If yes, please explain:

PLEASE DO NOT RESPOND TO THE FOLLOWING SECTION, IF YOU HAVE ALREADY COMPILED THE PREVIOUS ONE

Section 3 – Case-Study Two: Anti-Terrorism/Radicalization Policies in the UK and the Netherlands

The UK is the leading country, within the EU, as for anti-radicalization/terrorism policies. This is due to several reasons, such as, *inter alia*: its traditional political proximity to the US, the similarity of its legal and judicial system with the American one, the fact that Britain has recently been the target of home-made terrorist groups and that it owns a well-established tradition in the implementation of anti-terrorism measures. Whereas Britain is the leading country in this field, since 2004 the Netherlands has practically followed the same British approach to anti-terrorism, by amending its criminal law system and introducing (or trying to introduce) UK-style anti-terrorism/radicalization measures. A clear example of this similarity is the possible future introduction of administrative measures to restrict the freedom of movement of terrorist suspects, adopted in the wake of the British 'control orders'. The analogies between the UK and the Netherlands are not limited to the legal plane but also involve the organizational framework of anti-terrorism government agencies and the contents of relevant policies.

Migration and integration policies in the UK have traditionally reflected a multicultural approach, aimed at promoting social cohesion through the formal recognition of the immigrant communities within the society, also allowing the same communities to maintain their original cultural identities. The traditional Dutch integration model (the so-called 'pillarization' system) clearly resembles the British one. However, in the last years both these social integration models have come under criticism as they would favour the breeding of radicalism and extremism especially within communities of Islamic immigrants and 'new citizens'. Therefore, communities have increasingly become the main target of anti-radicalization policies, as a tool to prevent the diffusion of home-grown terrorism.

As a consequence, both countries' security services have changed their internal organization in order to enhance coordination and circulation of information among security agencies, also relying on the massive use of ICT in surveillance activities and data elaboration. This has generated a change of roles and tasks within national security agencies and created repercussions at the operational level within the security professionals' community.

Ultimately, it is worth noting that British anti-terrorism/radicalization policies have deeply influenced the EU ones. This is mainly due to historical reasons, as both the European anti-radicalization and anti-terrorism policies were originally adopted under the British Presidency of (the Council of) the European Union.

3.1   What are, in your opinion, the objectives of anti-terrorism/radicalization policies?
(Please tick the boxes you deem relevant)

Strengthening the security of Dutch/British citizens ☐

Preventing serious threats to the internal social order ☐

Fighting international crime ☐

Fighting domestic crime ☐
(Terrorism is a crime and radicalization is often a first step towards terrorism)

Defending the Dutch/British identity and way of life ☐

Defending the Western identity and way of life ☐

Preserve the internal public order ☐

Favouring social cohesion and peaceful relationships among individuals ☐

Preventing the fall of domestic consumption and other serious economic consequences ☐

Increase expenditures in the security sector ☐

Mobilise people by rallying them around identitarian concepts and ideals ☐

3.2   Is there any other objective?   Yes/No

If yes, please explain:

3.3   What are, in your opinion, the interests/aims of (would-be) terrorists?
(Please tick the boxes you deem relevant)

Spreading anger and fear among the population ☐

Making local population pay for some kind of offence received ☐

Making state authorities pay for some kind of offence received ☐

Conditioning national and local politics ☐

Imposing their vision of the world and society ☐

Presenting themselves as a credible political leadership for immigrant communities ☐

Gaining visibility in the media in order to increase their popularity ☐

Responding to discrimination by local people ☐

Claiming their rights at any cost ☐

Claiming their rights by any lawful means ☐

3.4   *Is there any other interest/aim (would-be) terrorists may have?*   Yes/No

If yes, please explain:

3.5   *Can you logically link some of the policy objectives reported in Questions Nos. 3.1*   Yes/No
      & 3.2 with the interests/aims of would-be terrorists (as included in Questions
      Nos. 3.3 & 3.4)?

If yes, please list up to 3 links
(e.g. Defending the Dutch/British identity and way of life ↔ Claiming the rights of immigrants by any lawful means)

3.6   *According to your experience or expertise, what are the ethical values that security*
      professionals should respect in carrying out anti-terrorism/radicalization operations?
(Please tick the boxes you deem relevant)

Accountability   ☐
(i.e. justifying and explaining actions to relevant stakeholders)

Courage   ☐
(i.e. acting with mental or moral strength to resist opposition, danger or hardship)

Efficiency   ☐
(i.e. achieving results with minimal efforts)

Expertise   ☐
(i.e. acting with competence, skills and knowledge)

Honesty   ☐
(i.e. acting with uprightness of character or action, refusing to lie, steal or deceive)

Humanity   ☐
(i.e. being benevolent, having a disposition to do good)

Impartiality   ☐
(i.e. acting not partially, treating or affecting all equally)

Integrity   ☐
(i.e. acting in accordance with relevant socially-accepted values, norms, and rules)

Obedience   ☐

(i.e. complying with rules, policies and directives received by your superiors or applied within your institution/organization)

Reliability
(i.e. acting in a trustworthy and consistent way)   ☐

Social Justice
(i.e. acting with the aim of promoting equality within the society)   ☐

Transparency
(i.e. acting openly and visibly, in a way which allows the control of your performance) ☐

Comments (optional):

3.7   *Do you see any difference or potential conflict between the values selected in*   Yes/No
      Question No. 3.6 and those promoted by your institution/organization?

      Please explain:

3.8   *Do you see any difference or potential conflict between the values selected in*   Yes/No
      Question No. 3.6 and your personal moral values?

      Please explain:

3.9   *Is it possible for you to discuss the conflicts you mentioned in Questions Nos. 3.7*   Yes/No
      and 3.8 within your institution/organization? Generally, do you think that your
      institution/organization's leadership would be responsive to instances
      concerning ethical dilemmas occurring while implementing such security
      practices?

      Please explain:

3.10   *Do you think that the use of technology in the implementation of anti-terrorism/radicalization policies may be useful in settle possible ethical dilemmas for security professionals?*   Yes/No
(Informatics and electronics may help in taking decisions, avoiding any further consideration)

<u>If yes</u>, when does it happen?
(Please tick the boxes you deem relevant)

In circulating information on suspects among security agencies   ☐

In elaborating profiles of suspects   ☐

In the surveillance of venues and people 'at risk'   ☐

In checking communications of suspects   ☐

In elaborating communications of suspects   ☐

In tracking movements of suspects   ☐

In tracking financial transactions of suspects   ☐

In exchanging information on suspects with foreign security agencies   ☐

In general, in gathering intelligence information on potential suspects in an anticipatory way   ☐

In general, in collecting evidence in 'ordinary' criminal investigations   ☐

Please report any other situation you deem relevant (optional):

<u>If not</u>, please explain:

3.11   *Is the support made available by the European Union through EUROPOL useful in dealing with possible ethical dilemmas generated by this kind of security practice?*   Yes/No
(e.g. if the EU is involved, such practices may be considered 'ethical' at all…)

Please explain:

3.12 *Has your institution/organization been recently rationalized/modernized in order*   Yes/No
to tackle the issue of domestic extremism?

If yes, please tick the boxes you deem relevant:

Service has been centralized   ☐

Service has been de-centralized   ☐

Established/strengthen links with other domestic security agencies belonging to   ☐
a different type of service
(e.g. police with intelligence, military with police, prosecution service with intelligence, etc.)

Established/strengthen links with other foreign/European security agencies   ☐

There has been a considerable change of tasks   ☐

There has been a considerable change of functions – mainly oriented towards   ☐
intelligence gathering

Middle-level officers now/will face more difficulties in their duty   ☐

Middle-level officers now/will face less difficulties in their duty   ☐

Service is now/will become more discretionary   ☐

Service is now/will become less discretionary   ☐

Service is now/will become more result-oriented   ☐

Service is now/will become less result-oriented   ☐

Service is now/will be more effective   ☐

Service is now/will be less effective   ☐

Other (please explain):

Comments (optional):
(e.g. resistance to the reorganization of service, more/less discretional powers for security professionals, budget-oriented
policies to be implemented, rise of result-oriented service, etc.)

3.13 *Do you think that terrorism and/or radicalization are rising in your country?*

If yes, please tick the boxes you deem relevant:

It is because our society faces a serious identity crisis ☐

It is the product of a culture of fear coming from abroad ☐

It is mainly due to uncontrolled immigration ☐

It is mainly due to differences of religion ☐

It is mainly due to differences of culture ☐

Socio/political context and local culture have a role in its diffusion ☐

It is mainly due to unemployment and other economic reasons ☐

It is mainly due to discrimination experienced by immigrants ☐
(e.g. at work, in 'ordinary' social relationships, within local communities, etc.)

It is mainly due to discrimination experienced on a personal level ☐

It is mainly an endogenous process, generated within our society ☐

Other (please explain): ☐

If not, please explain:

3.14 *How would you explain the adoption/implementation of more pressing/constant anti-terrorism/radicalization policies in your country?*
(Please tick the boxes you deem relevant)

They may be deemed as exceptional measures due to the magnitude of the phenomenon and the continuous risk of terrorist attacks (radicalization may be considered as a 'first step' towards terrorism) ☐

They are exceptional measures due to the current crisis of European societies, which are hardly capable to integrate immigrants ☐

They are exceptional measures due to the need of maintaining order and security in the UK/Netherlands/Europe ☐

They are common security practices undertaken in the context of ordinary state powers ☐

They are security practices which (at least partially) respond to the domestic political interests of national leaderships ☐

They are the sign that we are moving towards a progressive 'normalization' of exceptional security practices ☐

Media have favoured/encouraged their adoption ☐

Media have had a major role in the adoption of such security practices ☐

They are security practices dropped in from on high ☐

Other (please explain): ☐

3.15   *Has the adoption of anti-terrorism/radicalization policies had direct or indirect consequences on your professional duty (including your motivations, interests, affection, etc.)?*   Yes/No

If yes, please explain:

Transcript of Interview with Mr Ilkka Laitinen, FRONTEX Executive Director

FRONTEX HQ, Warsaw, 12 May 2010

Dr Matteo Tondini

VU University Amsterdam – INEX WP3

Introduction

This document contains a transcript of the interview with FRONTEX Executive Director, Mr Ilkka Laitinen, conducted by Dr Matteo Tondini at the FRONTEX HQ in Warsaw, on 12 May 2010. The transcript has been previously submitted for approval to Mr Laitinen, through the FRONTEX Public Relations Office and then returned to Dr Tondini with amendments. The latter have been acknowledged and thus included in the final text. The transcript of interview, in the present form, has therefore been officially approved by FRONTEX.
Statements, information and data reported in the transcript, as well as the transcript itself – in whole or in part, may be subject to publication or disclosure.

Transcript (T = Tondini; L = Laitinen)

T: Mr Laitinen, thank you very much for having accepted my interview request.

I would like to begin this interview by talking about the kind of assistance supposedly provided by Frontex to the Italian/Libyan joint naval operation of 18/19 June 2009, which ended with the interception of boat people in international waters by Italian authorities and their handover to the Libyan authorities. According to the Human Rights Watch's Report of 21 September 2009 – entitled 'Pushed Back, Pushed Around' – a German Super Puma helicopter belonging to the Operation Nautilus IV in Malta assisted the Italian authorities.

L: I am glad we started the interview with this issue. This gives me the opportunity to specify that Frontex was not involved in this disputed return operation. Our participation in such an intervention was indeed mistakenly quoted. The helicopter you mentioned was in fact in flight within its area of operations, which did not encompass the area where the Italian action took place. The latter occurred outside of the Frontex operational area.

Generally, it must be noted that Frontex is never in lead of joint EU border control operations, playing a mere coordinating role.

T: Well, coordination does not exclude a form of assistance or activity by Frontex in such operations.

L: But it is the individual responsibility of member states to process applications of asylum seekers and to undertake rescue operations. When a border control operation turns into a rescue operation, it falls totally on the intervening states. These kinds of operations are not within our current mandate.

On the other hand, as you may know, a Frontex Draft Regulation has been recently presented by the European Commission to the Council. The Draft Regulation provides for a co-leading role of Frontex and EU participating states in joint return operations as well as broader tasks in the Agency's cooperation with third countries.

T: Will these new powers entail further ethical dilemmas for the Agency, being directly involved in coordinating return operations at sea?

L: This might possibly entail a political, not an ethical dilemma. Indeed, we should note that the right of boat people to claim asylum or other forms of protection outside MS's territorial waters is not yet acknowledged Europe-wide.

T: Well, it looks like this does not apply to my country of origin – Italy – since the Italian government has repeatedly stated that people who claim asylum on board Italian vessels must be brought ashore in Italy to file their applications, but we are probably the sole or among the few countries in the world which recognize such a possibility… Notably, the new Rules for Frontex operations at sea, for the first time ever, provide an obligation to inform rescued migrants as to the place where they will be brought, so that they might invoke the non-refoulement principle.

L: This is certainly innovative. Again, the point is that the blame is normally put only on the implementation stage, but the original decision is political.

T: Indeed, the Agency's budget has been more than quadrupled over the years… This means that the Commission is increasingly relying on Frontex…

L: It is the Parliament which approves our budget. They have voted to expand our financing.

T: Yes, but currently, it is exactly the LIBE Parliamentary Committee which is opposing the new Council Decision on the Frontex operations at sea…

L: Apparently, there are conflicting instances within the Parliament.

Coming back to the dilemmas you mentioned before, I want to stress that we cannot operate when the international protection of migrants is not effectively secured. The respect of fundamental rights is a crucial part of the European border control service. The latter, as stressed in our policy documents, must be characterized – in the first instance – by the principle of humanity.

The situation in the Central Mediterranean Sea is particularly complex. On the one hand, reportedly, Libya does not readmit persons who are rescued within its SAR zone, and thus the rescue of people in distress at sea has to be undertaken by other states according to international maritime law. On the other hand, Malta tries to oppose the disembarkation of rescued migrants on its own territory…

T: In fact, it is not the case that the rules on the disembarkation of rescued migrants are included among the non-binding guidelines attached to the Council Decision I mentioned before.

L: This is true, however, thanks to the recent agreements between Libya and Italy, the Libyan-Italian migration route is now closed. This would therefore be the right moment for the Agency to intervene, with the aim of consolidating the results achieved so far. This is not the time to step back! The only way of doing this is to cooperate with neighboring countries such as Libya.

T: Yes, in a recent interview with Der Spiegel, President Gadhafi suggested that the EU should pay € 5 billion per year to Libya to finance a fund aimed at tackling illegal immigration. But in general, how would you seek to develop a fruitful cooperation with neighboring countries such as Libya?

L: Cooperation should be divided into two main pillars, i.e. 'Sustainable Partnership' and 'Gradual Development'. This means that, on the one hand the partnership between Frontex and third countries must be durable over time. Long-term sustainability then requires developing our partnership with third countries step by step, through the adoption of protocols and memoranda of understanding. It is basically a confidence building process.

Thanks to the roles and tasks provided in the new Frontex Draft Regulation, as submitted by the Commission, we could effectively launch capacity building programmes in third countries, aimed at creating the conditions to help in stemming irregular migration flows towards Europe.

T: Nevertheless, in this case the Agency would also be responsible for the adoption and implementation of development policies. This, on the one hand, would entail the Agency's direct accountability for the implementation of such policies, while, on the other hand, would imply for the Agency to act in the 'development assistance domain'…

L: But our responsibility is claimed anyway, even when Frontex is not involved in operations… Look at the HRW Report! At least with the adoption of this Draft Regulation responsibility will be justified by our capacity to act and take decisions in this field.

T: Again, Mr Laitinen, thank you very much for this interview and for your consideration.