

# **Faculty of Humanities**

Pre-Master in International Relations & European Union studies

#### Pre-master thesis

To what extent has Europol been hindered in its activities as a result of a lack of powers/competences during the 2015 Paris attacks? And in light of the attacks is it likely for the agency to be granted with more executive powers?

Europol and its weak counter-terrorism role

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Academic year: 2018/2019

# **ABSTRACT**

The lifting of internal borders across the European Union (EU) has brought new challenges to European security. Terrorists are enormously benefitting from the increasing openness of the Area of Freedom Security and Justice (AFSJ) to perpetuate attacks. An intelligence service across the EU, comparable to the American FBI, would come as logical consequence. To this end, Europol, the European agency tasked with assisting MSs in intelligence cooperation, was established. However, it still lacks vital executive powers such as the ones to monitor suspects, arrest and launch its own investigations. This thesis focuses on how the lack of executive powers hindered Europol's role as an intelligence actor during the deadly attacks of November 15, 2015 in Paris. The attacks are considered as a good example of transnational threat since they were coordinated by cell located in Belgium and valuable material of analysis because of the poor involvement of the agency. Finally, the dissertation sheds light on whether the events that affected the French capital triggered any important change at Europol's mandate in counter-terrorism.

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# **INTRODUCTION**

The implementation of the Schengen area in the 90s has brought new challenges to the EU (European Union) and its MSs (Member States). The absence of internal borders raised questions over the role that the EU shall play in the prevention and fight of transnational crimes and terrorist acts. To this end, in 1995 MSs established Europol (European Police Office), an agency tasked with intelligence cooperation between MSs themselves. According to article 88 of TFEU (Treaty on the Functioning of the European Union), 'Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States [...]'. The treaty codifies Europol as an intelligence actor. The agency's main task is to simplify information sharing between MSs and process data they receive from the latter, building links amongst criminal groups and to prepare future-oriented threat analysis on terrorism and organised crimes. Yet, Europol cannot conduct or initiate its own investigations, access 'raw information' at the MSs' level, directly monitor EU citizens or platforms or arrest suspects of a crime, having to rely on MSs' law enforcement agencies (Europol, 2019).

Securitisation of terrorism in the EU was to a large extent crisis-driven (Wensink et al., 2017). Prior the 9/11 terrorist attacks the European approach was limited to the intergovernmental bargaining between the MSs, but no serious commitment was seen until after 9/11. In light of these attacks, the bombing in Madrid (2004) and the attacks in London (2005), which caused a significant number of casualties, the attention was shifted to a European approach. Europol was the EU agency benefitting the most from this securitisation. The agency has increasingly become more involved in coordination and cooperation with MSs in matter of counter-terrorism (Wensink et al., 2017). Notwithstanding, significant barriers to a strengthened and more independent role of Europol in counter-terrorism still exist. Europol's role is often hindered by the lack of information that either MSs are not willing to share or that Europol is not able to access, due to the lack of competences.

Therefore, in the recent years the academic discourse (Muller-Wille, 2008; Muller-Wille, 2004; Bures, 2008) has been focusing on whether MSs should grant Europol more executive and independent powers and eventually form an agency comparable to the American FBI (Federal Bureau of Investigation). The thesis wants to positively contribute to the existing academic literature, by investigating to what extent the role of Europol was hindered in the 2015 Paris attacks as the result of lack of powers/competences and in light of these events how likely is it for the agency to be granted with executive powers. Chapter one begins with a review of the academic literature (Kaunert, 2018; Wensink et al., 2017) concerning the increasing securitisation of jihadist terrorism in the EU and

Europol's increasing influence on the European counter-terrorism measures, up to the period that precedes the Paris attacks in November 2015 (Carrapico, 2013). Additionally, this chapter delves into the three major obstacles to further independent and executive powers for the agency. The second chapter focuses on the more theoretical part of the issue, trying to explain under the neo-functionalist and liberal intergovernmental lenses – the two dominant theories on European integration – why cooperation within Europol has not reached its finest yet. Further in this chapter, it is provided a methodological approach to the analysis, explaining how all the information and data are collected and treated. Chapter three delves into the analysis of the most important part of the dissertation: the attacks in Paris on the night of the November 13, 2015. For the sake of clarity, the chapter starts with an introduction to the facts of November 13. The attention is then shifted to the general lack of information sharing of the MSs with Europol and it will be highlighted how this inability of the agency to access information hindered a prompt and well-coordinated response to the attacks. It will be argued that despite some institutional changes that followed the attacks, such as the establishment of European Counter-terrorism Centre (ECTC), that reinforced the overall role of Europol in counter-terrorism, it is unlikely that the agency will be granted with new executive powers in the near future.

#### 1. LITTERATURE REVIEW

This section starts with a brief overview over Europol's history and mandate. It will then delve into the debate of securitisation of the issue of terrorism in the EU, highlighting how European counterterrorism measures were triggered by major shocks. Finally, the attention is shifted over to the three main obstacles to a further expansion of Europol's mandate: states' sovereignty, differences in culture and/or institutional setting and distrust.

### 1.1. A brief look at Europol's history and mandate.

Europol was introduced in the EU framework under the Maastricht treaty in 1992 and was initially tasked with some limited operations, relating to drug crimes (Rozee et al., 2013; Deflem, 2007). The legal basis of Europol, however, was set out in 1995 during the Europol's convention and ratified by all MSs only in 1999 (Rozee et al., 2013; Deflem, 2007). As of today, Europol is composed of a central office, based in The Hague, the Netherlands and Europol National Units (ENUs), one in each Member State. ENUs cooperate with national law enforcement agencies and police force units to facilitate information sharing with the Europol's central headquarters (Rozee et al., 2013; Deflem, 2007). According to article 3 of the Europol Convention, the agency is tasked with: '(a) to facilitate the exchange of information between the MSs; (b) to obtain, collate and analyse information and intelligence; (c) to notify the competent authorities of the Member States without delay via the national units [...] of information concerning them and of any connections identified between criminal offences; (d) to develop specialist knowledge of the investigative procedures of the competent authorities in the Member States and to provide advice on investigations; (e) to provide strategic intelligence to assist with and promote the efficient and effective use of the resources available at national level for operational activities' (Council of the EU, 1995). Europol's main role therefore is to collect data from MSs, process it and produce threat assessments and future-oriented analysis on the model of intelligence-led policing, with special regard to organised crime and jihadist terrorism (Deflem, 2007). This role was further emphasised by the 2010 Council declaration that Europol 'should become a hub for information exchange between the law enforcement authorities of the member states' (Wensink et al., 2017). However, Europol lacks substantial executive powers. It cannot arrest, monitor EU citizens or start its own investigations (Delfem, 2007).

#### 1.2. The securitisation of terrorism in the EU.

Europol through the years became increasingly concerned with the issue of terrorism. Notwithstanding, this is a relatively old issue in the EU. It was already existing in 70s and 80s in some MSs in the form of either ethno-nationalist and separatist groups, such as ETA in Spain and IRA in the UK or left-wing terrorism, such as in Italy with its Red Brigade and in (West) Germany with its Red Army Faction

(Kaunert et al., 2018). Only few attempts were made in these years for European cooperation and worth to mention for the purpose of the research. Firstly, the TREVI group, founded during the Rome European Council in 1975, is one of the first examples of intelligence cooperation amongst MSs (Kaunert et al., 2018). Its tasks and achievements were limited, nonetheless, the group helped to enhance trust amid MSs and develop common techniques to counter terrorism (Kaunert et al., 2018). Secondly, the Police Working Group on Terrorism (PWGOT) was created in 1979 to boost police cooperation on the practical level among different states on matters relating to terrorism. Finally, in 1985 the signatory countries of the Schengen agreement (Belgium, the Netherlands, Luxembourg, France and West Germany), emphasised the importance of enhancing joint counter-terrorism measures, as terrorism was identified as one of the illegal activities that could profit from the lifting of internal borders (Kaunert et al., 2018).

Notwithstanding, terrorism was not securitised in the EU framework until 9/11 terrorist attacks in the US (Wensink et al., 2017; Kaunert et al., 2018). According the securitisation theory, securitisation has to be intended as the increasing framing of political issues by a 'security actor' as 'threatening' and 'menacing' to national security (Eroukhmanoff, 2017). As a consequence, these issues receive an increasing political attention moving from low to high priority that require prompt action (Eroukhmanoff, 2017). The attacks, that were later claimed by the Islamic terrorist group of Al-Qaida, represent the major shock that led to a European approach and securitisation of terrorism (Wensink et al., 2017; Kaunert et al., 2018). They were extremely grave in character, causing over 3000 casualties, and spectacular, since they were broadcasted worldwide (Kaunert et al., 2018). Yet, how can these be related to the EU? Following the attacks the Bush administration put pressure on Western Governments to align their counter-terrorism policies to the US', distinguishing between 'good' for countries that would and 'evil' for countries that would not (Kaunert et al., 2018). Moreover, the rhetoric that was used depicted the Islamic terrorism as one of the major threats two Western Governments of which the EU MSs belong to. Others shocks, such as the Madrid bombings (2004) and the London attacks (2005), helped consolidating the already existing counter-terrorism framework that was set as of 2001 (Kaunert et al, 2018). It is important moreover to at least to mention that other factors such as the establishment of the Islamic State in Iraq (2006) and Syria (2014), often referred as IS or ISIS, played a prominent role in counter-terrorism policy implementation (Wensink et al., 2017).

Therefore, the EU joined the US in its anti-terrorism efforts. The policy output that followed 9/11 was of great impact on European security (Kaunert et al., 2018). European governments started pooling resources to find a common approach to terrorism. For the first time a common framework for the fight against terrorism was agreed by the council at the end of 2001. It established a definition of terrorism agreed by the MSs. Moreover, the framework entailed a clause under which MSs, in the likely

event of a terrorist attack, are compelled to actively prosecute attackers and finally it committed MSs to an enhanced cooperation with the US in matters of terrorism. A second achievement was the European Arrest Warrant (EAW). As a result of the EAW once an arrest warrant is issued in one of the MSs, other MSs are required to arrest the suspects of a felony and transfer them to the original MS, where they can be put on trial. Furthermore, the Council decision 2002/465/JHA established the introduction of Joint Investigation Teams (JITs) for criminal matters that MSs were to be implemented by the 1<sup>st</sup> of January 2003. Lastly, a European Counter Terrorism Coordinator was established in 2004, with the purpose of improving coordination between EU bodies and the council and finally in 2005 the first European counter-terrorism strategy was agreed, focusing mainly on jihadist inspired terrorism, in alliance with the US counter-terrorism policy.

From the institutional point of view Europol has been the agency benefitting the most from an increasing securitisation of terrorism (Kaunert et al., 2018). A Counter Terrorism Task Force (CTTF) was created within Europol's framework straight after the 9/11 attacks. The CTTF mainly focused on Islamic radicalised terrorism. Moreover, the agency is now able to ask MSs' law enforcement authorities to launch investigations (Rozee et al., 2013) Europol has also been given an important role in the Terrorist Finance Tracking Programme (TFTP), as guarantor that the data shared with the MSs is used with the sole purpose of countering terrorism (De Boer, 2015). The increasing role of the agency in the EU's counter-terrorism framework is underlined by the Council Decision 2009/371/JHA, establishing a new legal basis for Europol. As of 1 January 2010, Europol was made an EU agency and it is financed from the EU budget. Moreover, Europol's influence in the JHA council decisions is increasing. One of main products of the agency, the TE-SAT (Terrorism Situation and Trend report), which presents the general situation for terrorism in the EU, is often used as starting point in the Council for identifying policy priorities (Carrapiço, 2013). Finally, Europol in 2014 was granted access to the Schengen Information System II (SIS II) (Europol, 2014). The database is largely used by MSs to upload information about perilous persons and/or objects and on how to deal with them in case of encounter.

#### 1.3. Europol and its obstacles to more executive power.

It is important to highlight that Europol still encounters numerous difficulties and it is as a result according to some observers a weak counter-terrorism actor (Rozee et al., 2013, Bures, 2008; Muller-Wille, 2008). Its weakness stands in its lack of substantial executive powers, such as the ones to arrest suspects of a crime, launch investigations and the possibility of monitoring suspects of terrorism (Deflem, 2007). Yet, the agency still comes across some obstacles in order to be granted such powers. A first point that emerges from the literature (Muller-Wille, 2008; Kaunert et al., 2018; Bures, 2016; Bures, 2008) is the one of states' sovereignty. For many MSs terrorism still represents 'something that needs to be dealt with at home' (Kaunert et al., 2018) and therefore they are reluctant to cooperate

with a central authority such as Europol. More independence to Europol would result in less sovereign powers for the MSs. This is the reason why 'the bulk of intelligence co-operation takes place outside of the EU structures' (Muller-Wille, 2008). The sovereign powers at 'stake' are considerably high. Police officers are granted with extraordinary powers and in extreme circumstances they are lawfully entitled to investigate, arrest, detain and/or kill people in defence of national interests (Muller-Wille, 2004; Cusmano, 2019). If Europol were to be granted such powers, it would mean, for instance, that under certain circumstances a German law enforcement officer could legally investigate, arrest, detain or kill a person in Dutch territory (Cusmano, 2019). This is something that neither MSs, nor the public are ready for. Consequently, MSs usually favour bilateral and/or multilateral agreements with other MSs or third countries than enhanced cooperation with Europol (Bures, 2016). Cooperation through bilateral/multilateral agreements is merely intergovernmental and based on the pursuit of MSs' interests. When cooperating with Europol, however, national intelligences are usually required to feed information to it, without a clear scope. Some scholars (Rozee et al, 2013; Muller-Wille, 2008; Bures, 2008), however, sustain that this preference for bilateral agreements may also be related to the 'presence of an elephant in the room', such as the US (Bures, 2008). The US is actively engaging with EU MSs in counter-terrorism policy formulation and implementation (Bures, 2008). Therefore, cooperation often happens in the form of bilateral agreements with the MSs, rather than through the EU counter-terrorism structures.

A second point that needs particular attention is the one of cultural/legal differences and/or institutional settings. These types of barriers are multiple, different in nature and often difficult to detect. They generally refer to those barriers related to actors within MSs and to the cooperation they oppose. First, there is a problem of efficiency. National intelligence services often oppose to change because they deem they can pursuit a better service (Muller-Wille, 2004). They are usually more integrated in the national systems and can carry out the objectives in more effective way due to their link to the law enforcement agencies, but also due to less bureaucratic and physical barriers, such as linguistic differences (Muller-Wille, 2004). Coordination from Brussels, seen in these terms, can be an obstacle to a more efficient intelligence. Second, Europol is competing with a long time well-structured and functioning network of bilateral agreements and cooperation outside the EU counter-terrorism framework (Fägersten, 2010), such as with the United States. Many states may fear that an enhanced cooperation with Europol will inevitably undermine the relationship with the latter (Muller-Wille, 2008). Third, there is a problem of accountability. MSs are still the ones democratically accountable for preventing and adequately respond to the terrorism threat and for providing vital information to national authorities (Bures, 2008). Therefore, they cannot rely on Europol:

No national service can argue that it failed to foil a terrorist plot because Europol did not do its job accurately. Neither the government nor the public would accept such an explanation (Muller-Wille, 2004).

Furthermore, counter-terrorism measures in MSs are carried out by different agencies. Some MSs prefer an intelligence-based approach, some others rely more on police forces (Bures, 2016). Therefore, the nature of information they are interested in differ (Bures, 2016). Police officers are usually more interested in criminal information that might lead to an arrest, whereas intelligence services are more interested in general and broad information (Brues, 2016). Finally, there are differences in the MSs' legal systems (Muller-Wille, 2008). Prosecution of terrorism can become difficult due to the lack of common legislative framework.

Lastly, there is a problem of distrust towards Europol and consequently of general resistance from MSs and actors within them in sharing information with the agency (Bures, 2016; Fägersten, 2010; Muller-Willer, 2008; Muller-Wille, 2004). To begin, one argument that is often brought forward is that national intelligence agencies fear leakages of precious information at Europol level (Muller-Wille, 2008). To continue, National Intelligence Agencies (NIAs) have low trust in the information that is provided by others, and therefore deem that the exchange of information through Europol would be beneficial only for their counterparts, but not for themselves (Muller-Wille, 2008; Fägersten, 2010). The problem with Europol, however, lies on the quantity (and quality) of information that it receives (Bures, 2008). The agency combines open source material with sensible data that is processed at the national level, without gaining access to 'raw information' at the MS's level (Muller-Wille, 2008). Consequently, if it lacks relevant material from the MSs the quality of its assessments and reports is highly affected. Differently, Bures (2008; 2016) suggests that distrust may also be linked to the fact that Europol was created as top-down agency (Bures, 2008; 2016). This means that it was not formed by police professionals through cooperation and later institutionalisation of the agency as such, but it was rather the result of a political decision taken at the EU level to enhance cooperation between MSs. Hence, NIAs tend not to share information with Europol because a great success of the latter may result in less dependence and autonomy for the former.

#### 2. THEORY & METHOD

This section briefly presents two of the main theories that have characterised European Integration: neo-functionalism and liberal intergovernmentalism. It will be explained how these can be related to Europol, highlighting why, at least on the theoretical level, on the one hand, Europol still does not play a central role in countering terrorism and on the other explaining why the agency was able to expand its mandate from its creation. Despite the differences in nature of the theories, this thesis will discuss them interchangeably and will show the validity of both. The second sub-section will provide the methodological approach to the study.

#### 2.1. Theorising about Europol.

The neo-functionalism theory was formulated at the beginning of the process of European integration by Ernest B. Haas (Hooge et al., 2019). It places great importance on the actors within society, being the real driving force behind European integration (Haas, 1958/2004). The attention is therefore centred on the actors' interests, rather than on the member states per se. If players within or amid states deem that supranational institutions are more beneficial than domestic institutions in achieving their goals and interests, they will create pressure for further integration (Hooge et al., 2019). Furthermore, neo-functionalists focus on the concept of spillover to explain why cooperation from one area leads to cooperation in another and the creation of further supranational institutions. Once again actors, due to the positive outcomes generated from cooperation and the transfer of power to supranational institutions, will create pressures for further cooperation in other areas. On the one hand, bringing the attention back to Europol, this theory can be used to explain why the bulk of police cooperation and more specifically counter-terrorism still happens at the MSs' level. NIAs are to be identified as the main actors in the process of European police integration. Europol, as above mentioned, was created as top-down agency (Bures, 2016). It was the result of a political decision that happened between MSs to tackle new challenges envisaged by the implementation of the Schengen area. Since NIAs did not take part in the establishment of Europol, they did not create any pressure to take integration a step further in this field. On the contrary, they opposed it, seeing it as threat to their autonomy and independence. This can be observed in their general resistance in sharing information with Europol. Moreover, Information sharing is de facto voluntary. Despite the repeated calls from European governments to share more information with Europol, it is not easy to accuse NIAs of failing in providing relevant information to Europol (Delfem, 2007). On the other hand, the neo-functional theory can be used to explain why Europol was able to enhance its role as a counter-terrorism actor from its original mandate. Institutional actors within Europol and the EU are to be considered as the driving force to more cooperation in different policing areas, generating a spillover effect. Europol, indeed, started limited operations in countering drug trafficking. Through the years, however, it was able to achieve some institutional change. The agency proved to be more efficient in achieving goals than NIAs and therefore was able to seize some additional powers. Due to the positive outcomes that Europol was able to achieve, actors within the agency and the EU became promoters of institutional change and they were eventually able to accomplish it.

Liberal intergovernmentalism, on the contrary, puts the attention on the states' interests and the power of bargaining (Moravsicks, 1998). Firstly, Integration is the result of 'cooperation and competition of national governments' and 'interests that drive decisions on European integration are primarily economic and issue specific' (Hooge et al., 2019). Furthermore, relative importance is also given to the power of bargaining as the instrument for MSs to pursue their national interests. National governments have clear ideas of what their interests are and they achieve them through intergovernmental bargain and agreements (Hooge et al, 2019). According to the liberal intergovernmental theory, supranational institutions are created by MSs as a proof of the commitment that they take in achieving a set goal (Hooge et al, 2019). Transferring this theory to Europol, it can be used to explain the general opposition that MSs have towards integration and relinquishment of greater parts of their sovereignty. The increasing perception and securitisation of jihadist terrorism is issue-specific driver that made MSs relinquish on part of their sovereignties in order to pursue their interest of national security. Europol was created out of the MSs' interests to guarantee more security for their citizens and as valuable proof of MSs' commitment in the fight against terrorism. However, MSs are also interested in protecting the same sovereign powers, seeing themselves as the main security actors and Europol as mere agency assisting them in pursuing their own interests. An expansion of Europol's mandate in this terms can be framed as a way of MSs to boost their commitment in combating terrorism in relation to major crisis and/or failures in the existing counterterrorism framework. This is why greater importance was placed on the agency after the 9/11 attacks (2001) and the bombing in Madrid (2004).

#### 2.2. Methodology.

Europol remains a weak counter-terrorism actor and it still lacks substantial executive powers, such as the ones of monitoring terrorist suspects, starting its own investigation and arresting people. In order to demonstrate this theory, the dissertation focuses on an empirical analysis of the 2015 Paris attacks and the events and investigations that followed. These attacks are deemed to be the most relevant object of analysis. Firstly, according to its mandate Europol is mostly concerned with crimes that affect two or more Member States. In the case of the Paris attacks the element of transnationality is observable by the fact that the attacks were coordinated by a Belgian cell. Secondly, for the large quantity of information available and, finally, because they are one of the biggest examples of failure in information sharing with Europol and cooperation amongst MSs. The dissertation takes into account

data that is made available on Europol's website and compares it with newspapers reports, official French and Belgian authorities' statements reported by newspapers and literature on the topic available online in the Leiden University library catalogue. It then stresses how failures and shortcomings in the prevention and adequate response to the terrorist attacks may be related to a poor coordination and involvement of Europol and its lack of executive powers. The case study aims indeed to prove that an effective European prevention and response was hindered by Europol's lack of competences.

# 3. CASE STUDY: THE PARIS ATTACKS OF NOVEMBER 13, 2015

#### 3.1. Behind the November 2015 Paris Attacks: The Belgian Terrorist Cell.

On the night of November 13, 2015, a series of well-coordinated attacks took place in the heart of the French capital (Europol, 2016; Henley et al., 2015; Cruickshank, 2017). The attacks were the first in gravity in the European history after the Madrid bombings in 2004, which resulted in 191 casualties, and in the French history after the second world war (Henley et al., 2015; Cruickshank, 2017). They were a combination of explosions and shootings, perpetuated by a total number of ten terrorists, in six different locations of Paris that resulted in a total number of 130 casualties<sup>1</sup> and more than 360 wounded (Europol, 2016; Henley et al, 2015; Cruickshank, 2017). A first explosion, which was caused by the self-detonation of one of the attackers, took place around 9:20 PM outside of the French national stadium during a friendly football match between France and Germany, which the president himself Hollande was attending (Henley et al, 2015). Subsequently, the two other explosions took place in front of one of the main entrances to the stadium and of a fast-food restaurant in the area. One man died during this attack (Torpey et al., 2015; Cruickshank, 2017). A later investigation led to the identification of Bilal Hadfi, a young man with French passport, living in Belgium, and two men originally from Iraq that had entered the EU through Greece, with fake Syrian passports, as refugees, few weeks before the attacks (Cruickshank, 2017) and Salah Abdeslam a Belgian citizen, known to the authorities for his failed attempts to go to Syria. The perpetuators reached the stadium on board of a rental car from Belgium that was eventually abandoned close to that area.

A second set of four attacks was carried out in the Parisian café district (Torpey et al., 2015) from 9:20 PM onwards. Firstly, in two different restaurants – 'Le Carillon' and 'Le Petit Cambodge' – close to 'Place de la République', where a man shot fire, killing a total number of fourteen diners (Torpey et al., 2015). Secondly, an attack took place around 9:32 PM, outside of the Italian pizzeria 'Casa Nostra', where a man shot fire in the street, killing a total number of five civilians. A third attack in this area took place around 9:38 PM at the bar 'La Belle Équipe', on 'Rue de Charonne'. Two men started shooting haphazardly on the crowd with a total number of 19 deaths (Cruickshank, 2015; Henley et al., 2015). Lastly, a suicide bomber blew himself up outside the 'Comptoir Voltaire café' around 21:40 PM. No deaths were recorded here, however, a person was seriously injured (Torpey et al., 2015). This second set of attacks was carried out by the infamous Belgian citizen, Abdelhamid Abaaoud, who was behind the wheel of a second rental car with Belgian plate number (Cruickshank, 2017) that facilitated the movements of the perpetuators in the café district. Abaaoud was well-known to the Belgian authorities and intelligence units for his vigorous activities in recruiting and radicalising individuals for

<sup>&</sup>lt;sup>1</sup> This number does not take into account the death of the perpetrators of the attacks (Cruickshank, 2017).

IS and for having allegedly travelled to Syria (Cruickshank, 2017). With him in the car sat Chakib Akrouh and Brahim Abdeslam, Salah's brother, who both held French passports.

Finally, the most lethal attack happened around 21:49 PM, in the famous Parisian concert venue 'Le Bataclan', during the performance of the American band 'Eagles of Death Metal'. Three men entered the venue and started firing indistinctly into the crowd. Two of the perpetrators eventually ended up blowing themselves up by detonating their suicide vests, whereas the third one was shot dead by French police forces. This last attack resulted in the death of 87 people (Europol, 2015; Cruickshank, 2017; Torpey et al., 2015). The third group was composed of Ismael Omar Mostefai, Samy Amimour and Foued Mohamed-Aggad, all French citizens. They were already known to French intelligence for having allegedly travelled to Syria in the period previous the attacks, where they joined the IS and were exposed to extreme violence and radicalisation (Europol, 2016a; Cruickshank, 2017; Torpey et al., 2015). The final balance for the perpetrators was seven out of ten dead through suicide or killed by police raids during and following the attacks (Europol, 2016a). Abaaoud, one of the survivors managed to hide for a couple of days and was eventually killed in a police raid, whereas Salah Abdeslam drove back to Belgium on the same night. He was stopped by the French police near the Belgian border, but eventually released for the lack of substantial incriminating proof (Cruickshank, 2017).

Many clues during the attacks hinted that they were coordinated by a cell, which was located in Brussels, Belgium (Cruickshank, 2017). It is thought by the Belgian and French intelligence, as reported by Cruickshank (2017) in a CNN article, that Mohamed Belkin was the real mind who coordinated the series of attacks on the night of the 13<sup>th</sup> of November, through the use of encrypted apps and several phone numbers that were geo-located in Brussels. Moreover, French investigators believe that during the attacks, the man was supported by Najim Laarchraoui, who was the only person in the group who had the knowledge to build the bombs that were detonated in different areas of the city. The Belgian cell was able to instruct terrorists in Paris before, during and after the attacks and successfully managed to kill the highest number of people possible. The financing of the cell, however, still remains unknown (Europol, 2016). Travels to Syria were probably financed by personal legal/illegal means. However, it still remains unclear how the terrorists were able to finance the purchase of expensive chemicals that were used to make the bombs (Europol, 2016b).

Following the attacks, an online statement by the Islamic State (IS) on November 14<sup>th</sup> claimed responsibility for what happened as revenge for the airstrikes carried out by France against IS in Syria, as part of the Franco-American coalition (Henley et al., 2015). President François Hollande, straight after the ISIS's statement publicly stated that the attacks will be considered as an 'an act of war' and that France will be acting consequently, leading a 'ruthless' and 'merciless' fight against ISIS (Henley et

al., 2015). Hollande's statement was followed on November 15<sup>th</sup> and 16<sup>th</sup> by the bombing of the capital of the so-called caliphate, Raqqa, in Syria, which was controlled by ISIS. The French targeted strategic points for the recruitment of volunteers and the storage of ammunitions (*CNN*, 2015).

# 3.2. The lack of information sharing with Europol: what was known prior the attacks. The Paris attacks highlighted general disinformation, distrust and poor cooperation amongst MSs and between MSs and Europol. NIAs did not share relevant information with Europol, undermining its efficient response to terrorism. The agency in 2014 launched a database that gathers information about people travelling outside EU borders and allegedly engaging in terrorist activities, including foreign fighters travelling to Syria (Baume et al., 2015). Nonetheless, at the moment of the attacks in Paris, just half of the MSs had uploaded information regarding foreign fighters on Europol's database (Baume et al., 2015). Overall, the role of Europol was hindered during the attacks due to the agency's lack of competence to access information at the MSs' level, to monitor suspects of terrorism and for

the lack of information exchange between MSs and Europol. At the moment of the attacks, Europol

did not hold any information on the perpetuators relevant to the investigations.

One of the main terrorists responsible for the Bataclan explosion, Omar Mostefai, was already known to French intelligence (Philippin et al., 2015). Back in 2009, he was recruited in France by a jihadist veteran, Abdelilah Ziyad, known to the intelligence for planning numerous terrorist attacks in Europe and leading a radicalised group in the country (Philippin et al., 2015). He was later spotted at the beginning of 2014 in France with the same group, after being put under surveillance by French authorities. But later in that year the French intelligence lost track of him (Philippin et al., 2015). In April 2014 the Turkish authorities informed the French intelligence that Omar Mostefai had travelled to Turkey and allegedly from there made his way to Syria (Philippin et al., 2015). After that no information about him was held until the infamous night of the 13<sup>th</sup> of November, when he along with two other perpetuators, killed a total number of 89 people inside the Bataclan (Philippin et al., 2015). None of this information however was held by Europol (Baume et al., 2015).

Similarly, earlier in 2015 the Belgian police stopped and questioned Salah and Brahim Abdledsam, the French brothers resident in Belgium over their attempt to travel to Syria (Baume et al., 2015). The two men were later released, but no one was informed, neither French authorities, nor Europol. (Baume et al., 2015). The two brothers moreover owned a café in Brussels that was well-known for selling drugs and that was shut down by the Belgian authorities just nine days before the attacks occurred (Baume et al., 2015). It was later found out that the two individuals were also stopped in a routine check by the Dutch police in 2015, prior the attacks, and had to pay a fine of 70 euros for illicit possession of small quantity of hashish but they were released straight after (Baume et al., 2015).

However, according to EU officials, even though it has never been confirmed nor denied by Europol, the profile of the Abdledsam's brothers was not in Europol's systems, nor in the French ones on the night of the attacks (Baume et al., 2015). This lack of information sharing led to a crucial mistake straight after the attacks. Salah, one of the two brothers who was involved in the attack at the national stadium, was pulled over by the French police close to the Belgian border few hours after the attacks. The soon-to-be suspect was travelling with two other men. The police, after performing some routine checks, released the man and his companions, simply because it could not link him to the terrorist attacks (Baume et al, 2015).

Yet, it is not easy to speculate whether Europol's coordination and better information sharing with MSs would have prevented the attacks from happening. What we can be sure about is that, due to the different and relevant information held by the two MSs that the data exchange with Europol and coordination after the attacks would have led to the arrest, or at least preliminary detention, of the perpetrator that was stopped close to the Belgian border. However, the agency from its side proved to be prompt and efficient in its response. With the information it held, within six hours, it provided French authorities with some 500 leads on the identified suspects (Baume et al., 2015). Europol was able to link some of the individuals identified by French authorities to other crimes such as the smuggling of fire arms, drug trafficking and trafficking in persons (Baume et al., 2015). Some officials were also sent to Paris to help the French police in its investigations, whereas Europol Arabic speaking staff was highly involved in assisting the two MSs in the monitoring of social media platforms that were used by the IS. Moreover, Europol activated the First Response Network (FRN) (Europol, 2015), a network that combines more than 56 counter-terrorism officers, from different MSs with experts from Europol. In light of the Parisian terrorist attacks the FRN closely studied religiously-inspired terrorism and came up with multiple conclusions (Euopol, 2016a). First, the general shift in the modus operandi of IS towards a more global strategy, specifically targeting France, but potentially threatening other MSs. Second, the existence of domestic cells operating in the EU. Third, the creation by IS of a command structure, which is trained outside of the EU, chiefly in Syria, but also in the Balkans area for the recruitment and radicalisation of individuals. Fourth, that the religious component in recruitment and radicalisation plays a less relevant role. People are pressured by other individuals and/or row models to join radicalised groups and finally, it pointed out the existence of other relevant religiouslyinspired terrorist groups, such as Al-Qaeda.

#### 3.3. What changed at Europol after the attacks?

In light of the attacks, some EU Governments, such as the Belgian, called for a greater cooperation between European intelligences and police. Guy Verhofstadt, the former Belgian Prime Minister said: "Terrorism is borderless; intelligence has to be borderless too." (Verhofstadt, 2015). Some others such

as the German government were slightly more sceptical about conferring substantial new powers to Europol, giving up on part of their sovereignty (Baume et al., 2015). Notwithstanding, change in the EU has often been happening in response to a crisis (Wensink et al., 2017). Europol was able to achieve some institutional changes and to strengthen its role as a counter-terrorism actor. MSs boosted their commitment in the fight against terrorism, in light of the failures that were exposed during the Paris attacks by establishing the European Counter-terrorism Centre (ECTC). Yet, the agency was not granted with any substantial new executive powers. What was highlighted during the attacks in Paris is the general tendency of MSs to limit the quantity and quality of information shared with Europol (Baume, 2015) negatively impacting its work. Therefore, the measures taken by the MSs were aimed at improving the exchange of data with the agency.

In order to to do so, a November 2015 JHA Council decision set up the legal framework for the ECTC within Europol (Europol, 2015), investing the agency with greater concern in counter-terrorism. This proposal came from intuitional actors within the agency, promoting strengthened cooperation amongst NIAs, envisaging the potential benefits. The council decision framed the ECTC as a hub for intelligence sharing and for tackling of new terrorist threats (Europol, 2015). Moreover, one of its main objectives is to promote trust and awareness amongst MSs' intelligence agencies and Europol itself (Europol, 2015). The centre started operating as of January 2016 (Europol, 2015) and its main focus, so far, has been jihadist terrorism, as consequence of the growing number of religiously-inspired terrorist attacks and the issue of foreign fighters returning from Syria (Europol, 2015). The establishment of the ECTC was already proposed by Europol to the Standing Committee on Operational Cooperation on Internal Security (COSI) earlier in 2015 (Konrad, 2016). This proposal was initially opposed by the German government, claiming that Europol should have no further powers and its competence should be limited at assisting MSs (Konrad, 2016, p. 42). This did not change until after the attacks in Paris, when the German government changed its position and expressed itself in favour of the implementation of the ECTC (Konrad, 2016).

In addition, within Europol an Internet Referral Unit (IRU) was established at the end of 2015 (Europol, 2018). Due to the fact that terrorists increasingly use the internet to recruit and radicalise people within the EU, the IUR, which now operates under the ECTC, assists MSs in the removal of malicious and/or radicalised content on the internet, building links between MSs and processing the data it receives (Europol, 2018). This is an important activity in countering terrorism since, as Dragu (2011) suggests, an increased activity of intelligence is a valuable tool to deter terrorism-related activities. Nonetheless, Europol has still a marginal role within the IUR, as most of the work happens in the MSs' intelligence agencies. Finally, a Council resolution (2017/C 18/01) in July 2017 encouraged MSs to deploy JITs more under the coordination of Europol and Eurojust, the European Agency for judicial

cooperation. Overall, Europol's role as counter-terrorism actor was strengthened in response to the Paris 'crisis', reinforcing its tasks as counter-terrorism actor. Besides MSs, institutional actors within Europol and the EU are also the be considered as the main driver for this change, as the lack of information exchange with the agency led to a crucial mistake in the later investigations. Institutional actors perceived Europol as the more valuable option for pursuing their interest of security and therefore pushed for more integration in policing cooperation.

#### 3.4. Europol as an intelligence policing actor.

Europol has long been framed as the main intelligence actor within the EU (Muller-Wille, 2008; Brues, 2008; Delfem, 2007). The agency could be an added-value especially in those areas where crime benefits from the increasing openness of the AFSJ, such as counter-terrorism, organised crimes, drug trafficking or trafficking in persons, by being able to monitor its own suspects and conduct its own investigations. By strengthening this role Europol would be able to build stronger links between criminal organisations, to keep MSs informed about dangerous individuals and their movements throughout the EU. During the Paris attacks, such powers would have come useful especially considering that they were perpetuated by a cell that was located in Belgium. Europol could have easily informed French and Belgian authorities about these individuals and its coordination would have triggered a prompter response. In light of the issues emerged from the Paris attacks, a more independent transnational intelligence under Europol would come as a logical consequence. Nonetheless, the attacks did not confer any executive powers to Europol and major changes in this direction are unlikely to happen in the near future. Actors within MSs and MSs themselves still oppose to them. On the one hand, MSs' sovereignty remains the biggest obstacle to change. The crisis led to a general strengthening of Europol's existing powers of analysis and processing data from MSs, emphasising MSs' general commitment and interest in combating terrorism. However, Europol was not conferred with any new extra power, since the sovereignty at stake remains too high. MSs have no interest in conferring more power to Europol because they still see themselves as the main security actors and therefore put greater importance on bilateral agreements between themselves and with third countries. On the other hand, Further integration in the matter of policing cooperation does not happen because actors within MSs are not driving force towards it. Despite the efforts from MSs in creating the ECTC, the agency has not been granted with new powers and still struggles in getting relevant information, also because it is still perceived by NIAs as an actor that could weaken their independence and autonomy. As a consequence, NIAs oppose to change, undermining Europol's intelligence work and seeing themselves as the ones democratically accountable of countering terrorism.

#### 4. CONCLUSION

The research has looked into the issue of the lack of competences of Europol and the likelihood of MSs to grant Europol with more executive powers. In order to do so the dissertation focused on the attacks that happened in Paris on November 13, 2015. A preliminary literature review highlighted the general securitisation of the issue of terrorism in European politics and found out that as of 9/11 terrorism was increasingly dealt with at the EU level. A community approach took place and European governments started to work more closely and cohesively together. Some great achievements that were agreed are the establishment of a common framework for terrorism, when MSs jointly defined terrorism for the first time, the EAW, the introduction of JITs, the Counter-Terrorism Coordinator and the 2005 European counter-terrorism strategy. From the institutional point of view Europol was the agency that benefitting the most and its powers were extended throughout the years. The CTTF was established, focusing mainly on jihadist terrorism, Europol was assigned an important role in the TFTP and it was granted access to the SIS II. Furthermore, Europol was made European agency as of 2010 meaning that is financed by European budget. The research has also noticed that the agency is of increasing influence in the JHA counter-terrorism policy cycle. Notwithstanding, Europol still lacks substantial executive powers and it continues to have a marginal role in countering terrorism. Obstacles to more executive powers for the agency were pointed out. Firstly, MSs are reluctant to give up on a big part of their sovereignties and therefore tend to favour bilateral and/or multilateral agreements to cooperation with Europol. Secondly, there are cultural differences and/or differences in institutional settings, usually relating to the opposition coming from actors within MSs, that deem that they can pursue a better service due to the fact that they are more integrated. Moreover, national intelligence services still remain the ones democratically accountable for countering terrorism. Other obstacles related to this category are the great differences in the institutional settings amongst MSs. Some of them, indeed, favour an intelligence-led approach whereas others use police forces in countering terrorism. Lastly, there is general sense of distrust amid MSs their intelligence agencies that fear/are reluctant to share precious information with a central authority such as Europol.

The research then presented the series of well-coordinated attacks that afflicted the French capital on the night of November 13, 2015. The attacks have been the deadliest in European history after the bombings in Madrid in 2004. They were perpetuated mainly by European citizens – French and Belgian – that had allegedly travelled to Syria and made their own way back to the EU undisturbed. The coordination of the attacks happened by a cell that was later found to be located in Brussels, Belgium. The attacks were transnational in character and Europol's role was overall hindered by the impossibility of the agency to access data at the MSs' level and monitor its own suspects and the lack of information sharing from MSs. Indeed, some of the perpetrators were well-known either by the

French or the Belgian intelligence, but the lack of information sharing led to a poor response during the attacks. Consequently, MSs strengthened their general commitment in fighting terrorism, thorough the creation of the ECTC as a hub for information exchange. The centre enhanced the already existing powers of Europol and put greater importance on Europol as counter-terrorism actor. Yet, no new substantial executive power was granted to the agency and this is unlikely to happen in the near future. Firstly, Sovereignty still represents the biggest obstacle for change to happen and therefore MSs did not promote any integration. They still see themselves as the main security actors and therefore are reluctant to relinquish on a substantial part of their sovereignty to Europol. Secondly, NIAs generally did not trigger further integration for the mere fact that they fear that more executive powers to Europol will inevitably undermine their autonomy and independence.

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