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## **The effectiveness of Europol's external agreements with third countries**

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**Bachelor thesis: the effectiveness of Europol's external agreements with  
third countries**

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## **List of abbreviations**

EEA	European Economic Area
EP	European Parliament
EPC	European Political Cooperation
EU	European Union
Europol	European Police Office
JHA	Justice and Home Affairs
TCA	Trade and Cooperation Agreement
UK	United Kingdom
USA	United States of America

## 1. Introduction

External security threats within the European Union (EU) are being discussed among member states through mechanisms provided by EU institutions and bodies, such as the meetings of the Council of the EU, since the establishment of the European Political Cooperation (EPC) in 1970 (Wolff et. al., 2009, p. 9). Additionally, cooperation within the fields of Justice and Home Affairs (JHA) was added to the Maastricht Treaty (Maastricht Treaty, 1992, p. 61). The Treaty outlined in article K.1 matters such as asylum policy, immigration policy, and judicial cooperation to be matters of common interests for all the Member States. It also outlined the matter of police cooperation within a European Police Office (Europol) (Article K.1(9); Maastricht Treaty, 1992, p. 61). Since the entry into force of the Lisbon Treaty in 2009, the external dimension of JHA is becoming more operational (Wolff, 2023, p. 360). For example, the agency Europol had been established. This led to new kinds of control over activities, such as activities related to cross-border crime, terrorism, drug and human trafficking, and cybercrime. Europol plays a crucial role in coordinating these transnational activities. Europol was allowed to develop relations with third countries and bodies if only this was necessary for the performing of its tasks (Article 23; Council Decision 2009/371/JHA, 2009, p. 49). There was also included, that in line with the information exchange of Europol, agreements with third countries should center around the transmission of information (Council Decision 2009/371/JHA, 2009, p. 49). The adoption of this Council Decision led to Europol being more of a supranational agency in its external relations (Leonard & Kaunert, 2021, p. 230). Europol also has increased its ability to shape the external environment the EU deals with (Mounier, 2009b, p. 582). Many studies have focused on the external side of the internal security policy of the EU, and in particular Europol. When doing so, Europol is an agency that has and can have, a big influence not only on member states but also on third countries and organizations. This external influence has developed over the years in line with the recent events that were happening in Europe and the world, e.g., terrorist attacks (Cross, 2017, p. 611).

Europol can now make cooperation agreements with third countries and it can therefore develop its relations with these countries (Mounier, 2009b, p. 591). These agreements are being made based on the Europol External Strategy. In these three to four years reports, the objectives have been stated which Europol wants to focus on in its activities in the external domain (“Europol External Strategy 2017-2020,” 2016). Concerning third countries, Europol can conclude three kinds of agreements: operational, strategic, and working arrangements (*Agreements & Working Arrangements* | Europol, 2023).

The literature points to that Europol has been concluding all kinds of agreements

based on reports and its External Strategy. The external dimension of JHA is therefore becoming more operational (Wolff, 2023, p. 360). But in what way has Europol's external relations with third countries been effective? The main focus of this thesis will be to look at the objectives of these third-country agreements, whether they have been achieved or not, and finally, in what way Europol has been effective in achieving these objectives. The research question of this bachelor thesis will therefore be: in what way have external agreements between Europol and third countries been effective over time?

First, I will clarify the role of Europol, conceptualize the external relations of this agency and give a definition of effectiveness. Secondly, I will determine the factors that can influence the effectiveness of external relations with third countries and establish expectations. Then I will list my three case studies: Norway, Turkey, and the United Kingdom (UK). Thirdly, I will determine the objectives of the agreements of each country. These objectives will afterward be linked to the earlier general factors of effectiveness. After this, I will look per agreement which factors are present. With this, I can see which expectations are being met and then, finally, see what the degree of effectiveness is. In the end, I will answer the research question and make recommendations for future research.

## **2. Literature review**

In this section of the thesis, Europol and the concepts of external action and effectiveness will be conceptualized and explained. To research the effectiveness of the external actions of Europol, this thesis will first provide more insight into Europol itself, how it was established, and what it does. It will also provide insight into the external actions of this agency.

### **2.1 The European Police Office**

The Maastricht Treaty outlined the European Police Office. Article K.1 of this treaty states that police cooperation is required for preventing serious forms of international crime, e.g., drug trafficking and terrorism. Therefore, a Union-wide information-sharing system within Europol has been organized (Maastricht Treaty, 1992, p. 61). With the Europol Convention of 1995, Europol was fully established (Europol Convention, 1995, p. 5). The main tasks were established as, among other things, facilitating the exchange of information between Member States, obtaining information, and aiding Member States by sending information to the national units (Europol Convention, 1995, pp. 5-6). Also, at least one liaison officer from each national unit must be sent to Europol. They represent the interests of their national unit and assist in the exchange of information of their seconding national unit (Europol Convention, 1995, pp. 6-7).

Europol was established as an international organization but is an agency since 2009 (Council Decision 2009/371/JHA). It falls within the JHA sector (Lavenex, 2015, p. 848). Europol is not an executive police force, as it does not have the authority to arrest individuals or conduct searches. Europol's focus lies on information exchange between national authorities (Leonard & Kaunert, 2021, p. 229). Europol falls under the authority of the Council, which establishes the guidelines. The management boards of Europol include representatives of the European Commission, but also the member states (Steindler, 2015, p. 406). Europol also provides intelligence to national authorities on terrorist groups (Monar, 2014, p. 206). National police officers throughout Europe value the threat analysis and the advanced information exchange platforms that Europol provides. Indicators such as the rising budget of Europol, the number of cases in which Europol was referred, and the rise of messages exchanged between national authorities and Europol, show that Europol has added value. National authorities see it as a useful body or tool in fighting internal and external crime (Sperling, 2013, p. 212).

## 2.2 External actions of Europol

Europol plays an important role in the formation of the external security decisions of the Union. Mounier (2009b) argues that it influences in three ways. Firstly, it can establish cooperation agreements with third countries. Secondly, Europol has been fostering relationships with partner and third countries, thus influencing local police regimes. Lastly, Europol's growing influence extends to Security Sector Reform (SSR) activities, enhancing a state's national security performance (Mounier, 2009b, p. 591). In 2000, Council Decision 2000/C106/01 authorized Europol's director to negotiate agreements with third states and non-EU bodies, bolstering the effectiveness of combating crime through Europol's relations with these entities (pp. 2-3). Subsequently, Council Decision 2009/375/JHA in 2009 defined the list of third states and organizations for which Europol would conclude agreements. Such agreements benefit Europol by facilitating the exchange of personal data with these states or organizations (p. 12).

Europol has developed external instruments and strategies to effectively organize its operations. This has resulted in Europol becoming an attractive partner for non-EU countries. Through its role, Europol can shape the security framework of third countries and influence their national security decisions (Mounier, 2009b, p. 598). There is also an aim for third-country participation in EU agencies (Lavenex, 2015, p. 837). Including a third country in a regulatory EU body can serve as a foreign policy tool. This organizational inclusion can pave the way for various outcomes, such as EU accession or the establishment of a developing relationship with the EU (Lavenex, 2015, p. 837). Europol, however, differs in that it does not offer third-country membership. Instead, Europol engages in close cooperation agreements with third countries, without granting them agency membership (Lavenex, 2015, p. 846).

Since its new mandate of 1 May 2017, Europol's external relations have expanded (Regulation 2016/794, 2016, p. 53). While parliamentary oversight has been strengthened, Europol now has the ability, in light of cybersecurity, to receive more personal data from private parties and collaborate with national units (Wolff., 2023, p. 361). Cooperation agreements with third countries, particularly in the context of counter-terrorism, have been established (Cross, 2017, p. 610). Europol should be able to exchange personal data with third countries and organizations (Regulation 2016/794, 2016, p. 57).

This led to the creation of an internal-external security nexus, where international actors have developed the external dimensions of their internal security measures (Mounier, 2009b, p. 583). The nexus is shaped by both the EU's internal JHA policies and agencies and the evolving demands of the international system (Wolff., 2023, p. 370). Terrorism requires a



transnational response that integrates internal and external policies (Shepherd, 2021, p. 733). However, the distribution of external competences among actors has been inefficient, hindering the ability of the EU to act on the international scene. The internal-external security nexus has raised saliency on this issue (Mounier, 2009a, p. 59). Counter-terrorism policies have primarily focused on fortifying European borders in external relations and strengthening the institutional component of Europol. Europol has already gained competences, such as conducting terrorist threat assessments and providing investigation support. This has contributed to the agency's growth (Monar, 2014, p. 198). Challenges persist for Europol, as some national authorities are reluctant to share information, especially in the field of terrorism. Certain member states prioritize addressing national threat situations, making the implementation of international policies more challenging (Monar, 2014, pp. 206-7).

### **2.3 Defining (external) effectiveness**

When assessing the effectiveness of external agreements between Europol and third countries, it is crucial to clarify the definition of effectiveness and the methods for analyzing it. Effectiveness is determined by the attainment of stated objectives and the alignment of network outputs (Vantaggiato et. al., 2021, p. 574; Schunz, 2021, p. 134). Effectiveness is therefore immediately linked to the power and legitimacy of an actor. Power is defined, by Schunz (2021), as the ability to produce intended effects and is a mere capacity (p. 134). An actor will be effective when this capacity is converted into actual influence by changing other actors' behaviour or other actions (Schunz, 2010, p. 25). This automatically leads to when there is a lack of effectiveness, an actor's legitimacy can erode. Earlier, effectiveness was defined by Da Conceição-Heldt and Meunier (2014) as the degree to which international environmental regimes are capable of resolving the issues that initially prompted their establishment (p. 968), which is the same definition as Schunz (2021): the EU's ability to reach its objectives by influencing other actors. Effectiveness was also defined by Acharya and Johnston (2007) as the actors' ability to realize the goals they set for themselves (p. 13). Daniel Thomas (2012) defines external effectiveness along the same lines. Thomas (2012) defines it as the Union's ability to shape world affairs following the objectives it adopts on particular issues (p. 460). It is important to recognize that effectiveness is not a binary concept but exists along a continuum ranging from high to low effectiveness (Da Conceição-Heldt & Meunier, 2014, p. 968; Schunz, 2021, pp. 140-1). The definition of Schunz (2021) will be the main definition of external effectiveness in this thesis, as it is a developed definition and the most recent.

External effectiveness for the EU entails being recognized as an actor by third countries, which cannot be guaranteed due to conflicting national incentives. In this case of recognition, there are two different forms: *de jure* or *de facto* (Da Conceição-Heldt & Meunier, 2014, p. 965). *De jure* recognition is about recognizing the EU diplomatically or formal membership in an international organization, through e.g., participating in the negotiation and finalization of an international agreement (Govaere et. al., 2004, p. 156). *De facto* recognition occurs when third countries or organizations engage in interactions with the EU, implicitly acknowledging the EU's status as an international actor (Da Conceição-Heldt & Meunier, 2014, p. 965).

To operationalize external effectiveness, the EU's objectives must be identified and compared to the output or outcome. The EU's actions in the process leading to the outcome are analyzed, and the degree of external effectiveness is determined by assessing goal achievement and purposive action (Schunz, 2021, pp. 139-141).

### **3. Analytical framework and methodology**

How can the effectiveness of the external agreements of Europol with third countries be explained? This section of the thesis will first determine the factors that can influence the (degree of) effectiveness of external agreements with third countries. After this, the methods of analysis and the evidence of this thesis will be explained with the three case studies, Norway, Turkey, and the UK.

#### **3.1 Factors influencing the effectiveness**

To assess the effectiveness of Europol agreements with third countries, it is essential to understand the concept of "external differentiated integration." Differentiated integration, as described by Sandra Lavenex and Ivo Križić (2022), is a form of collaboration that enables states, whether EU members or non-members, and other entities to work together (p. 35). In the context of external differentiated integration, it refers to cooperation between an EU body and non-member states. When EU bodies or member states, possibly joined by non-EU entities, engage in cooperation beyond the EU's established rules and regulations, they create agreements and arrangements that differ from formal EU membership agreements (Lavenex & Križić, 2022, p. 35).

Increasing effectiveness is a significant ambition for the establishment of differentiated institutions (Lavenex & Križić, 2022, p. 41). Three factors can arise from these dimensions of differentiated integration to test its effectiveness. These are subdivided into smaller factors (see Table 1). The first factor that can influence the effectiveness connects with the nature of the issue area in question; these are called issue-area characteristics (Lavenex & Križić, 2022, p. 44). Lavenex and Križić (2022) emphasize excludability to measure whether a country is free-riding on a specific agreement or policy (p. 44; Kölliker, 2001, p. 130). Within the concept of excludability, three forms can be distinguished. Firstly, high excludability, where benefits from cooperation can be confined to only those who participate. High excludability is assumed to be more effective as in this case, free-riding is not possible. This creates centripetal effects in some states, which can drive 'outsiders' to be a part of the differentiated integration mechanism, only to gain from the cooperation (Lavenex & Križić, 2022, p. 44). Schengen or the European Monetary Union are examples of centripetal effects, where states want to share the benefits. Secondly, low excludability, where states have incentives to cooperate if they benefit from problem-solving solutions. With this, they are freeriding on the efforts of others (Lavenex & Križić, 2022, p. 44). This will be

harmful to policymaking and concluding agreements because not all relevant actors would be participating. This will likely increase the ineffectiveness of differentiated integration. Lastly, neutral excludability, where only a specific group or state will be affected by an issue area (Lavenex & Križić, 2022, p. 44). This is not relevant to the effectiveness of differentiated integration, as it does not directly impact the ability of different actors to participate in or benefit from the integration process. It is thus not included in Table 1. As the effectiveness of Europol fundamentally relies on the engagement of all (non-)member states, it is to be assumed that there is high excludability. As dynamics in international relations can differ, it must be noted that the level of contribution per country can differ from another country. With this information, the first expectation is created.

**Expectation 1:** An agreement will be more effective if there is a case of high excludability.

The second factor relates to country-specific factors (Lavenex & Križić, 2022, p. 45). Institutions can help governments to overcome e.g., collective action dilemmas. By giving authority to institutions, a compliance effect can arise. Actors with a strong regulatory dimension are most likely to ensure member compliance with policy output (Lavenex & Križić, 2022, p. 45). A drive for actors to comply with agreed requirements can be e.g., avoiding financial penalties. Regulatory capacity also plays a significant role in policy implementation. Next to this, organizational features of arrangements and agreements can be important for the capacity aspect of effectiveness (Lavenex & Križić, 2022, p. 46). As external agreements are based on, among other things, information exchange, rather than the establishment of a regulatory framework, regulatory dimensions within third actors could differ. Based on this literature, institutional agreements that have a strong level of participation by non-EU states should be particularly favorable to effective external differentiated integration. The regulatory capacity of a state is enhanced by signing cooperation agreements with Europol. A non-member state can learn from its counterpart (Europol). This improves the effectiveness of policy enforcement. But only regulatory commitment is not enough to stimulate effective implementation, organizational commitment is equally required (Lavenex & Križić, 2022, p. 47). In this way, two more expectations can be created.

**Expectation 2:** An agreement will be more effective when an actor has a strong regulatory dimension.

**Expectation 3:** An agreement will be more effective when there is a structured institutional set up within the country.

The third factor relates to that international outcomes are shaped by the preferences of the most powerful actors in a system: power structures (Lavenex & Križić, 2022, p. 47). Structural power can be defined as the power to influence or shape structures of third countries and organize the principles of the international system (Keukeleire & Yang, 2023, p. 402). Great powers can influence smaller states with e.g., economic coercion. The relationship between Europol and agreements with other states can lead to an insider-outsider feeling of police cooperation. Differentiated integration is the most effective when it can rely on the positions of other great powers, such as the USA and China. If the preferences of these powers are towards Europol, the pressure on a third country could disrupt the process (Lavenex & Križić, 2022, p. 47). Next to this, consistency in fulfilling data protection requirements can also be a factor in the effectiveness of differentiated integration (Anagnostakis et. al., 2017, p. 970). When exporting norms to other (external) countries, the EU is more effective when this happens to countries that are less powerful than the EU. This is a different case when the EU is exporting its visions and norms to countries that are equally powerful or more powerful than the EU (Anagnostakis et. al., 2017, p. 970). When looking at the three case studies, it is assumed that Europol will have trouble exporting its norms to for example the UK, as it faces relative power equality. This information creates the last two expectations.

**Expectation 4:** An agreement will be more effective when an actor is less powerful structurally.

**Expectation 5:** An agreement will be less effective when there is interference from an external great(er) power.

**Table 1.** Factors influencing the effectiveness of the external differentiated integration (Anagnostakis et. al., 2017, p. 970; Lavenex & Križić, 2022, pp. 44-7).

Factors of effectiveness	Subdivision of factors	Reference
Issue-area characteristics	High excludability	(Lavenex & Križić, 2022, p. 44)
	Low excludability	(Lavenex & Križić, 2022, p. 44)
Country specific factors	Institutional set up of agreements & domestic institutional capacity	(Lavenex & Križić, 2022, p. 46)
	Strong regulatory dimension & commitment	(Lavenex & Križić, 2022, p. 45)
Power structures	Outside external great power influence	(Lavenex & Križić, 2022, p. 47)
	Exporting norms	(Anagnostakis et. al., 2017, p. 970)

### 3.2 Case studies: Norway, Turkey, and the UK

Differentiated integration allows states to work together in multiple ways. Third countries are cooperating with the EU on many levels, which creates agreements where there is no formal membership (p. 35). Europol can conclude operational and strategic agreements and, since 2017, working arrangements (Article 25; Regulation 2016/794, 2016, pp. 78-9). In this thesis, I will look at three different third countries: Norway, Turkey, and the UK. All of these countries concluded different kinds of agreements with Europol. With these three countries, three layers of differentiated integration will be researched. Firstly, cooperation of Europol with a non-EU, but a Schengen member. This is Norway, which concluded an operational agreement with Europol. Secondly, the cooperation of Europol with a third country which is a candidate for accession. This is Turkey, which concluded a strategic agreement with Europol. Europol's contribution to the evaluation of candidate states for accession to the Union should include providing strategic analyses and threat assessments (Regulation 2016/794, 2016, p. 54). Thirdly, the cooperation of Europol with a former EU member. This is the UK, which concluded a working arrangement with Europol. A look at these three agreements will provide a varied perspective on the incorporation of data protection rules.

### **3.3 Evidence**

To analyze in what way the external agreements between Europol and Norway, Turkey, and the UK have been effective, I will use primary documents, which means the agreements themselves. The objectives that are being listed in each separate agreement are necessary, just like the most recent programming document of Europol, Europol's (external) strategies, and reports of all three countries, to see how the objectives are being implemented. The factors of effectiveness listed in Table 1 will be linked to Europol and afterward used to analyze the effectiveness of external agreements. I will link my findings to secondary literature, such as scholarly articles. I will also look into news articles, which will visualize the performed actions between each third country and Europol, and the websites of government institutions of each separate country. I will do a content analysis of these documents and triangulate the evidence when possible. Also, other country-specific agreements (e.g., the TCA of the UK), and Commission Reports could find the answer to the expectations being met or not.

#### **4. Analysis of the ‘effectiveness of the external agreements of Europol’**

In this section, I will analyze the factors of effectiveness in external differentiated integration and their contribution to the effectiveness of Europol's external agreements with Norway, Turkey, and the UK. First, I will provide a brief explanation of the different types of external agreements that Europol can establish. Then, I will summarize the objectives of the agreements between Europol and each country. Subsequently, I will apply the general factors of effectiveness to Europol as a whole. Finally, I will conduct a separate analysis for each country to assess how the identified factors of effectiveness are manifested. By examining these aspects, I will evaluate the extent to which expectations have been met and determine the level of effectiveness for each agreement.

##### **4.1 Third-country relations and types of agreements**

Since the establishment of Europol, there has been recognition of the need for cooperation with third countries in combating transnational crime (Anagnostakis et. al., 2017, p. 969). From 2000 onwards, Europol was authorized by the Council to negotiate agreements with third countries and organizations (Council Decision 2000/C106/01, pp. 2-3). Since then, two types of cooperation agreements can be established: strategic and operational agreements. Strategic agreements involve sharing practices, technical expertise, and establishing liaison points, serving as a preliminary step for potential operational agreements (Anagnostakis et. al., 2017, p. 970). Operational agreements allow the exchange of personal and technical data between third countries and Europol. Before entering into negotiations, third countries must adopt the EU's data protection rules (Kaunert & Zwolski, 2013, pp. 101-3).

Since Regulation 2016/794 (2016), Europol became the center of joint efforts to fight terrorism, organized crime, and cybercrime (p. 53). The regulation enhanced Europol's mandate to counter the increase in cross-border crimes and it increases its data protection (Regulation 2016/794, 2016, p. 55). Under Regulation 2016/794 (2016), Europol can enter into working arrangements ensuring access to information provided for specific operational analysis projects (p. 76). The exchange of relevant personal data and other information that is relevant for the performance of its tasks with third countries will be enabled by these working arrangements (Article 23; Regulation 2016/794, 2016, p. 77).



## 4.2 Objectives in the external agreements

In Table 2, the important information per third country has been listed. This is information such as the agreement type, the year that the agreement was made, and the (most) important objectives or provisions. These objectives can be linked to the factors of effectiveness, to research if they have been effective or not.

**Table 2.** Concluded agreements between Europol and Norway, Turkey, and the UK.

Country	Agreement type	Signing year	Objectives/provisions
<b>Norway</b>	Operational	2001	1. Norway shall notify Europol of the purpose of the supply of information (article 8(1)).
			2. Europol is responsible for ensuring that personal data may only be accessed by a Europol official (article 8(3)).
			3. Supply of personal data must be necessary for the purpose of preventing or combating international crime (article 9(2)(e)).
			4. Cooperation will be enhanced by stationing liaison officers representing Norway at Europol (article 14(1)) and a Europol liaison officer at the NCIS (article 15(1)).
<b>Turkey</b>	Strategic	2004	1. Exchange of strategic and technical information of mutual interest (article 3(1)).
			2. Exchange of law enforcement experience including the organisation of scientific and practice-oriented conferences, internships, consultations and seminars (article 3 (2)).
			3. Exchange of legislation, manuals, technical literature and other law enforcement materials (article 3(3)).
			4. Training (article 3(4)).
<b>The UK</b>	Working and administrative	2021	1. High level meeting shall take place between Europol and representatives of the UK to discuss issues and cooperation (article 4(1)(a)).
			2. A liaison officer of the UK shall work to facilitate cooperation. Europol may equally consider the secondment of a liaison officer to the UK (article 5(1)).
			3. Mechanisms like joint investigation teams are established (article 6(2)).
			4. The UK has access to Europol's capabilities, expertise and databases (article 6).

### **4.3 Application of factors of effectiveness to Europol**

The factors in Table 1 need to be connected and applied to Europol to assess their relevance. The first factor is issue area characteristics. According to Lavenex and Križić (2022), the nature of the issue can affect the effectiveness of external differentiated integration (p. 44). Like said above, they emphasize two forms within this factor: high and low excludability. In the case of Europol, excludability can be found in the objective that Europol is the EU criminal information hub (Europol External Strategy 2021-2024, 2021, p. 146). Information exchange with the country or organization that Europol is cooperating with, is for both parties equally beneficial and important. The exchange of information and knowledge is essential to investigate the evidence and to combat and prevent international crimes. Not being able to do so, could lead to a security vulnerability (Ilbiz & Kaunert, 2021, p. 275).

The second factor, country-specific factors, was also subdivided. Lavenex and Križić (2022) made a distinction between the institutional set up of agreements and the strength of a regulatory dimension of an actor (pp. 45-6). Both of these subdivided factors can affect the effectiveness of external differentiated integration. Organizational features of agreements play a big role in the capacity aspect of effectiveness. Also, actors with a strong regulatory dimension can ensure member performance with policy output, thereby increasing the effectiveness of an agreement. The organizational features of the agreements can be seen in features such as a legal framework, governance mechanisms for coordination, and information-sharing protocols. The regulatory dimension of Europol relies on its External Strategies over the years, as well as its Programming Documents and its general strategy, where the rules, objectives, and provisions that need to be followed, are being listed for the following years (Europol Strategy 2020+, 2018; Europol Programming Document 2022-2024, 2021).

The third factor that can affect the effectiveness of differentiated integration, is the power structure, or the structural power, of an actor (Lavenex & Križić, 2022, p. 47). External great powers can influence other smaller actors, which can affect the effectiveness in both positive and negative ways (Lavenex & Križić, 2022, p. 47). Also, consistency in fulfilling data protection requirements influences effectiveness. This will most likely be effective when the EU can export it to a smaller country. When both powers are equally powerful, there will be a possibility that the other actor will follow its own national norms (Anagnostakis et. al., 2017, p. 970). With its external agreements and relations, Europol, as a significant power, can try to project its norms on a third actor. A third country can learn from their other part, which they are cooperating with. Europol can, in return, use its structural power to influence these

countries. But, a third country can also invoke the example of the Europol-USA agreement when Europol insists a third country to adopt the EU's data protection rules, to undermine the arguments on data protection (Anagnostakis et. al., 2017, p. 974).

#### **4.4.1 Norway**

Norway is not an EU member but is still closely tied. Norway participates in Schengen and is a member of the European Economic Area (EEA). This means that Norway also adopts 75% of EU legislation (Martill, 2021, p. 975). As seen in Table 2, Norway and Europol concluded an operational agreement in 2001. The purpose of the agreement is to combat serious forms of international crime, through the exchange of strategic and operational information, as stated in Article 2 of the agreement (2001, p. 2). But in what way has this been effective? When looking at performed actions of Europol and Norway together, you can see that there is intensive cooperation between both actors. For example, in March 2023, Europol and the ATLAS network brought together a joint training exercise in tracking suspected terrorists across borders (*This Is What You (Almost) Never See* | Europol, 2023). The right coordination and exchange of information between a couple of countries, including Norway, to Europol is a result of intensive cooperation. This joint exercise relates closely to the purpose of the concluded agreement: combating international crime through information exchange. Also, in 2015, Europol worked together with Norway in a two-week joint operation in the pursuit of cybercriminals. Europol worked with police agencies in nine countries, including Norway. They shared intelligence and they identified suspects. This led, in Norway, to the arrest of five suspected males (OCCRP, 2015).

To assess the effectiveness of this agreement, we can refer to the factors mentioned in Table 1. First, the character of the issue area, excludability, can be observed in provision 3 of Table 2. Article 9(2)(e) highlights the requirement for the supply of personal data to be necessary for preventing or combating international crime. As the information exchange is bilateral, free riding is not an issue. The operational agreement emphasizes Europol's role as an EU information hub and underscores the importance of information exchange in combating international crimes through articles 2 and 3. The exchange of information is mutually beneficial for both parties in combatting international crime, indicating a case of high excludability.

Second, the institutional set up of agreements and the strength of the regulatory dimension are seen to be developed in Norway. Kjekshus and Veggeland (2011) assume that a state's capacity to regulate is enhanced by putting in place a coordinated governmental

apparatus (p. 1571). This is the case in Norway, where the regulatory capacity is centralized. While internationalization may lead to some loss of external control, Norway gains control through its operational agreement with Europol (Kjekshus & Veggeland, 2011, p. 1580). If we look at provision 4 in Table 2, it is said that cooperation is enhanced because of liaison officers in both Europol and Norway. In that way, Norway can still control its information exchange and participation. Next to this, organizational commitment is equally required for effective implementation (Lavenex & Križić, 2022, p. 47). In “Norway’s Mission to the EU” (2015) the relationship between Norway and Europol is listed, such as the high commitment they have towards the bilateral operational agreement. This demonstrates their commitment to make the agreement work.

Finally, power structures can also influence the effectiveness of the operational agreement. Norway's close association with EU programs like the EEA Agreement, and its shared values and norms, position it as an equal power alongside EU member states (Norwegian Ministry of Foreign Affairs, 2015, pp. 3-4). There is also almost no case of an external great(er) power that can influence the agreement. Norway focuses on the cooperation between itself and the EU, but in terms of energy supply, Norway comes second to Russia in supplying energy products (Norwegian Ministry of Foreign Affairs, 2015, p. 4). This is not related to the JHA dimension, but it still could be an influence on effectiveness.

#### **4.4.2 Turkey**

In 1999, Turkey was granted candidacy status by the EU. This required the country to adhere to the Copenhagen criteria and adopt EU discourses and standards (Lippert, 2021, p. 272).

This led to Turkish political and societal actors recognizing EU discourses, such as the abolishment of the death penalty, to meet EU standards (Rumelili, 2021, p. 207). This period led to the establishment of positive relations between Turkey and the EU, culminating in the signing of a strategic agreement between Turkey and Europol in 2000. A Turkish Liaison Officer is seconded to Europol since 2016 (Commission-Turkey Report, 2022, p. 48).

Turkey’s geostrategic advantage, as it is close to for example Syria, leads to the EU maintaining diplomatic relations with Turkey, to stay informed about developments of the Syrian civil war, such as the inflow of refugees (Oktay, 2015, p. 640). The purpose of the Turkey-Europol agreement is the same as the Norway agreement: enhancing cooperation in preventing, detecting, suppressing, and investigating serious forms of international crime, through exchanging strategic and technical information (Art. 1, Turkey-Europol Agreement, 2000, p. 2). However, in the last decade, the relationship between the EU and Turkey has been

reduced. The EU became aware of Turkey's divergence from EU positions, leading to a decline in the previous strategic advantage and a deterioration of Turkey-EU relations (Lippert, 2021, p. 273). Turkey remained a key strategic partner, which led to the extent of the Turkey-Europol agreement. After all, Europol relies on agreements with actors inside and also outside of Europe (Deflem, 2007, p. 355).

But, with Turkey's democratic backsliding, has the agreement been effective over time? If you look at the Commission's annual reports of Turkey's development from the last four years (2019-2022), it is clear that Turkey is still not aligning with the EU *acquis* in the field of Justice, Freedom, and Security. Turkey is not aligning their data protection law with EU standards. This is an obstacle to operational cooperation with Europol (Commission-Turkey Report, 2022, p. 6). This issue is emphasized in all four Commission reports. Also, in the last four years, Turkey has only made some progress in the field of Justice, Freedom, and Security, in particular in migration and asylum policy. Every year the Commission does some recommendations for Turkey to do in the coming year, but these recommendations mostly stay equal to the report of the earlier year. Also, in Turkey's fight against organized crime, there still is limited progress over the last four years (Commission-Turkey Report, 2022, p. 6). Turkey still needs to align their legal framework to the EU *acquis*. By looking at Commission Reports there could be some bias about the development, as the Commission is, in a sense, evaluating its own institution. Also, while the strategic agreement with Europol has the potential to be effective, considering Turkey's divergence from EU standards and its limited progress in security relations, the effectiveness of the agreement remains uncertain.

First, it is both for Europol and for Turkey beneficial to have a strategic agreement. This can for example be seen in objective 4 of Table 2. This training objective was for example exercised when Interpol, Europol, and the Turkish National Police organized a regional crime training to target counterfeiting and piracy networks (INTERPOL, 2010). By co-hosting this event, Turkey showed its commitment to police actions. This training also showed effective cooperation between Interpol, Europol, and Turkey. This indicates a case of high excludability.

The second factors of effectiveness, a strong regulatory dimension and a structured institutional set up, do not apply to Turkey. Turkey still has a fragile institutional and regulatory environment. Regulatory authorities are still not independent. The President has the majority of power over these authorities (Commission-Turkey Report, 2022, pp. 9-11).

This directly relates to the third factor: power structures. The result of Turkey's candidate status is the power inequality between Turkey and the EU. The EU is a kind of

‘gatekeeper’ in the sense that it controls the accession process of Turkey and that it can decide what rules Turkey should adopt, in the field of data protection rules but also information exchange, as stated in objective 1 of Table 2 (Art. 3(1), Turkey-Europol Agreement, 2000, p. 2). The EU is, on the other hand, dependent on the USA (Anagnostakis et. al., 2017, p. 977). This means that when the USA should intervene, the agreement between Europol and Turkey can become less effective. But this does not mean that such an occasion will happen.

#### **4.4.3 The UK**

Since UK’s withdrawal from the EU in 2020, it was thought that Brexit could mean the end of cooperation in the JHA field (Wolff et. al., 2022, p. 604). But the fact that the UK left, does not have to mean that ‘Brexit means Brexit’. The UK can still participate in different fields, e.g., JHA. The UK had a significant role in the development of JHA agencies as well as its agenda-setting, as it has been a part of, for example, Europol since 1994 (Wolff et. al., 2022, p. 605). The UK remains close to areas where it has been a norm exporter, such as police cooperation (Wolff et. al., 2022, p. 606). The participation of the EU also shows that there has been no case of de-Europeanization. In the case of Europol, the UK opted into the new Europol regulation in 2016, while it earlier questioned participating with Europol (Wolff et. al., 2022, p. 611). With the working arrangement of 2021, the goal was to cooperate in preventing and combating serious crime, terrorism, and other forms of crime which affect a common interest covered by a Union policy, through the exchange of information (Art. 1, UK-Europol arrangement, 2021, p. 3). The continued engagement of the UK after Brexit with EU policies, such as the exchange of personal data, varies depending on domestic politics and where their priorities lie (Wolff, 2023, p. 356). But, with Europol, the UK still hoped to retain a close relationship (Mortera-Martínez et. al., 2021, p. 13). Unlike other Europol-third country agreements, the working arrangement between the UK and Europol allows for direct access to Europol information if deemed appropriate by the competent authorities and Europol (Art. 50, TCA, 2020, p. 303). This distinguishes the UK agreement from others, as it provides a potential way for direct information exchange.

But in what way has this working arrangement been effective, especially when you look at the Brexit process? When we look at issue area characteristics, the Lords Select Committee has published via the UK Parliament a look at the involvement of the UK in EU law enforcement and criminal agencies (V, UK Parliament, 2021). It has been made clear that the UK wants to keep cooperative relations. The UK will still have liaison officers, as stated in UK objective 2 of Table 2, and will also keep the quantity and quality of intelligence

sharing optimal. A big part of the serious crimes that the UK faces, comes from Europe to the UK. The UK is therefore hugely reliant on cooperation with Europol, especially with data exchange (V, UK Parliament, 2021). Here we can see a case of high excludability.

When looking at the presence of country-specific factors to determine the effectiveness, the EU Committee of the House of Lords published in 2021 a report on the institutional framework beyond Brexit (EU Committee, 2021). In this report, it is concluded that the entire governance structure for the EU-UK relationship is in a state of uncertainty (EU Committee, 2021, p. 23). This is because the governance structure mentioned in the TCA only exists on paper and still needs to be implemented and learned to work with. For the (strength of the) regulatory dimension is concluded in the report of the EU Committee of the House of Lords that the regulatory framework of the UK and the EU are closely aligned (EU Committee, 2021, p. 28).

The last factor, power structures, is to be seen in the working arrangement itself and the TCA. According to Article 61 of the TCA (2020), nothing in the cooperation and the objectives of the TCA shall be an obligation on Europol to cooperate with the competent authorities of the UK (p. 307). For the interference of a greater external power, the UK used to be in the 'Five Eyes' intelligence security alliance with the US, Australia, New Zealand, and Canada (Goldman, 2022, p. 168). All five countries have liaison officers posted in Europol. Because of Brexit, the UK is now an outsider and will not have access to the other countries within the current 'Four Eyes'. This makes the UK reliant on Europol to help them combat crime in their own country.

#### **4.5 Expectations and effectiveness**

Now that I have looked at which factors are present in the agreements between the countries and Europol, I will look at which the earlier listed expectations have been met. Among the three countries examined, the first expectation of information exchange with Europol has been met. Norway has conducted joint exercises in tracking criminals and terrorists, while Turkey and the UK have expressed the need for cooperation with Europol due to the various security challenges they face.

The second expectation is only met in Norway and the UK, as they both have their well-functioning (developed) domestic regulatory authorities and can create policies. However, Turkey still has an unstable regulatory environment with limited independence of regulatory authorities, primarily influenced by the President's power. This relates to the third expectation, which is also not met in Turkey. Next to an unstable regulatory environment,

there is also a fragile institutional environment. For the UK, there has been a structured institutional set up on paper, but it is not implemented yet. This also means that the third expectation is not met. For Norway, it is met. Information exchange to and from Europol is controlled by liaison officers.

The fourth expectation, regarding dependence on external powers, is not met in Norway, which has close ties to EU programs. Turkey relies more on the EU than the EU relies on Turkey (Anagnostakis et. al., 2017, p. 977). For the UK, Europol can still act on its competences as set out in Union law and is not obliged to cooperate with the competent authorities of the UK. The final expectation is only being met by Turkey, as the USA is an external great power that can influence the Turkey-Europol agreement. The agreements between the UK and Norway with Europol are less likely to be influenced by external powers, as both countries demonstrate a strong commitment to the agreements.

With this information, it is becoming clearer what the actual effectiveness is. The Norway-Europol agreement appears to be largely effective. There is a centralized regulatory capacity, a control over the information exchange through the explicitly placed liaison officers and there is an organizational commitment. For Turkey, the effectiveness is more uncertain. Turkey does recognize the importance of cooperation with Europol and also has a strategic advantage in terms of its geographical location, but there are challenges related to a fragile regulatory and institutional environment. This can hinder the effectiveness of the agreement. For the UK, the effectiveness is also uncertain, which is a consequence of Brexit. The agreement does allow the UK to have access to Europol information, but the outcomes remain to be seen.



## 5. Conclusion

In this thesis, I aimed to identify in what way the external agreements of Europol with third countries have been effective. I identified five expectations based on factors that could affect the external differentiated integration. I linked these expectations to Europol and how they can be researched in the light of this agency. By looking at the agreements between Europol and three case studies, Norway, Turkey, and the UK, I analyzed which factors of effectiveness were present. After this, I looked at which expectations were met. This led to the establishment of the degree of effectiveness of each agreement.

As explained above, since 2000, Europol had received the ability to enter into negotiations on agreements with third states, and since 2009 the Council determined a list of third states that Europol shall conclude these agreements with (Council Decision 2000/C106/01; Council Decision 2009/935/JHA). With each agreement, the agency wants to enhance information exchange and develop close cooperation to meet challenges posed by international crime.

With the agreements of Norway, Turkey, and the UK, Europol wants to achieve the same goal together with those countries. It has become clear that all of these countries want to cooperate with Europol, as it is also beneficial for the combat of the crimes in their own country (the UK), for the combat of international crime (Norway), or the training of their national police authorities in the combat of crime (Turkey). This makes the agreements with Europol more effective. It has also become clear that the UK and Norway have a strong regulatory framework. This is not the case in Turkey, where the institutional and regulatory instruments are still unstable (which is also a reason they are still a candidate member). This shows that the agreement with Norway is more effective, with the UK more uncertain and the Turkey-Europol agreement slightly less effective and uncertain, as there is a possibility the provisions and objectives will not be well carried out. Next to this, the UK and Turkey are less powerful actors in light of their agreement with Europol; they are too dependent on information exchange. This makes the agreement more effective because Europol can export its norms to these countries. Norway is more of an equal power next to Europol. This does not mean that the agreement is not effective. Finally, it has become clear that the interference of an external greater power will, for the UK and Norway, not mean that the agreement or relationship with Europol will be less effective. As for Turkey, who can be influenced by bigger countries/actors such as the USA, this is the other way around.

So, when answering the research question to see in what way the external agreements of Europol with third countries have been effective, I can conclude that all of these three countries want to make cooperation between themselves and Europol work because it is also beneficial for themselves. They are implementing the concluded agreements in their domestic policies and other national agreements. They take place in numerous actions with Europol to show their willingness to combat international crime.

As this thesis only focuses on Europol and the Council Decision and Regulations that were established around 2000-2016, it is also interesting to look at the new Europol Regulation Recast (Regulation 2022/991). This recast entered into force in June 2022 and holds amendments to the 2016 Regulation such as cooperation with private parties and own-initiative investigations (Art. 41b (2), Regulation 2022/991, 2022, p. 35). Further research could look at the implementation of this Recast and maybe even at the functioning and outcomes of e.g., cooperation with private parties.

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