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"EXCHANGE OF INFORMATION AND INTELLIGENCE BETWEEN
EUROPOL AND
THE MEMBER STATES AND BETWEEN THE MEMBER STATES
RESPECTIVELY"
REPORT ON ESTONIA**

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REPORT ON ESTONIA

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TABLE OF CONTENTS

1. INTRODUCTION	3
2. GENERAL INFORMATION AND STRUCTURES	4
3. INTERNAL ORGANISATION OF THE EXCHANGE OF INFORMATION	8
4. EXTERNAL EXCHANGE OF INFORMATION	10
5. EXCHANGE OF INFORMATION BETWEEN MEMBER STATES AND EUROPOL	11
6. EVALUATION BY EXPERT TEAM.....	13
7. GENERAL CONCLUSIONS AND RECOMMENDATIONS OF THE EXPERT TEAM	28
ANNEXES	
ANNEX A: Programme of visits	31
ANNEX B: List of persons met	32
ANNEX C: List of abbreviations.....	34

RESTREINT UE

1. INTRODUCTION

- 1.1. Following adoption of a Joint Action on 5 December 1997, a mechanism was established for evaluating the application and implementation at national level of international undertakings in the fight against organised crime.
- 1.2. Following a proposal originating from the Swedish delegation and taken up by the Presidency, plans to evaluate the supply of information and intelligence to EUROPOL and the exchange of information and intelligence between Member States were adopted at the MDG meeting on 3 and 4 June 2002.
- 1.3. At its meeting on 3 December 2002 the MDG approved the questionnaire on the third round of mutual evaluations on the topic "exchange of information and intelligence between EUROPOL and the Member States and among the Member States respectively".
- 1.4. Following discussion at the MDG meeting on 9 January 2003, a list showing the order of Member States to be visited was agreed. Estonia is the twenty-second Member State to be evaluated during the third round of evaluations.
- 1.5. The questionnaire and the objectives of this evaluation are contained in 11679/3/02 REV 3 CRIMORG 71.
- 1.6. The experts in charge of this evaluation were: Mr Lars HENRIKSSON (Finland), Mr Antonio DOBLAS JIMENEZ (Spain) and Mr Dmitrijs CEPLIS (Latvia). Two observers, Mr Erik LANGHOFF (EUROPOL) and Mr Michael CARLIN (Commission), were also present, together with the General Secretariat of the Council.
- 1.7. The evaluation team has prepared the following report with the assistance of the Council Secretariat, on the basis of the observations and conclusions of the experts in the team together with the Estonian authorities' answers to the questionnaire.

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1.8. The report deals first with general information and structures (2), followed by the internal organisation of the exchange of information (3) and the external exchange of information (4), and then deals more specifically with EUROPOL (5). In the last chapter, the experts make a comprehensive technical evaluation and then propose some recommendations to enhance cooperation and effectiveness in the exchange of information within Estonia and with other Member States and EUROPOL.

2. GENERAL INFORMATION AND STRUCTURES¹

2.1. LEGAL BASIS

a) Basic Legal Acts for Police Activities:

- Constitution
- Police Act
- Police Service Act
- Penal Code
- Code of Criminal Procedure
- Surveillance Act.

New legislation in force since 01.07.2004.

In the Criminal Procedure Code article 473 "Spontaneous information" states:

Within the framework of mutual assistance in criminal procedure, a competent judicial authority may forward to a foreign state information obtained by a procedural act performed without prior request when such information may constitute grounds for initiating a criminal proceeding in such foreign state or may assist in ascertaining the facts relating to a criminal offence subject to a criminal proceeding already initiated.

Estonia has ratified and applies the 1959 European Convention on Mutual Assistance in Criminal Matters and the 2000 Convention, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union.

¹ This part of the report is based largely on the answers to the questionnaire.

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Estonia also applies other international conventions on assistance in criminal matters covering the exchange of information and intelligence.

Estonia has concluded several bi- and multilateral agreements with other EU Member States that can be used to exchange information, e.g.

- Treaty between the Government of the Republic of Estonia, the Government of the Republic of Latvia and the Government of the Republic of Lithuania on Legal Assistance in Civil and Criminal Matters (in force since 03.04.1993)
- Agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland on Cooperation to Combat Criminal Offences (in force since 12.10.1995)
- Cooperation Agreement between the Ministry of Internal Affairs of the Republic of Estonia, the Ministry of Internal Affairs of the Republic of Latvia and the Ministry of Internal Affairs of the Republic of Lithuania (in force since 30.06.1995)
- Cooperation Agreement on Combating Organised Crime and Terrorism and Other Criminal Offences of Significant Importance between the Government of the Republic of Estonia and the Federal Republic of Germany (in force since 1996)
- Cooperation Agreement on Combating Terrorism, Illicit Trafficking in Drugs and Organised Crime between the Government of the Republic of Estonia and the Government of the Republic of Hungary (in force since 31.12.1997)
- Cooperation Agreement between the Ministry of Internal Affairs of the Republic of Estonia and the Ministry of Internal Affairs of the Republic of Austria to combat international organised crime, illegal trade in narcotic drugs and international terrorism (in force since 07.07.1998)
- Treaty between the Republic of Estonia and the Republic of Poland on Mutual Legal Assistance in Civil, Labour and Criminal Matters (in force since 08.02.2000)

RESTREINT UE

- Agreement on police cooperation between the Government of the Republic of Estonia and the Government of the Kingdom of Belgium (in force since 11.06.2001)
- Agreement on operational police cooperation to combat and investigate serious and organised crime between the police authorities of Finland, Estonia, Latvia and Lithuania (in force since 15.06.2001)
- Cooperation agreement between Tallinn Police Prefecture and Helsinki Police (in force since 10.12.2001)
- Agreement on Operational Cooperation between the Police Department of the Ministry of Internal Affairs of the Republic of Finland, the Police Board of the Republic of Estonia and the Ministry of Internal Affairs of the Russian Federation on Combating and Investigating Drug Related Crimes (in force since 30.08.2002)
- Memorandum of Understanding between the Government of the Republic of Estonia and the Government of the United Kingdom of Great Britain and Northern Ireland on cooperation in combating illicit drug trafficking, organised crime, illegal immigration, international terrorism and other serious crime (in force since 29.01.2003)
- Multi-agency Memorandum of Understanding between the Republic of Estonia and the United Kingdom of Great Britain and Northern Ireland on cooperation in combating illicit drug trafficking, organised crime, illegal immigration, international terrorism and other serious crime (in force since 29.01.2003)
- Cooperation Protocol between Tallinn Police Prefecture, Helsinki Police Department, Principal Police Department of Riga, Vilnius City Chief Police Commissariat and Warsaw Metropolitan Police (in force since 07.11.2003)
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Estonia concerning cooperation in the fight against organised crime, illicit drug trafficking and terrorism (in force since 23.01.2004)

RESTREINT UE

- Agreement between the Government of the Republic of Estonia and the Government of the Republic of Poland on cooperation in combating organised crime and other crime (in force since 07.02.2004)
- Cooperation Agreement between the Government of the Republic of Estonia and the Government of the Republic of Cyprus on the Fight against Organised and Other Forms of Crime (in force since 20.06.2004)
- Convention on mutual assistance and cooperation between customs administrations (Naples II).
- b) Estonia became a full member of EUROPOL on 01.07.2005, by becoming party to the EUROPOL Convention and its Protocols. Before that the Cooperation Agreement between Estonia and EUROPOL, signed 10.10.2001, was used for the exchange of information.

2.2 STRUCTURES

The following law enforcement agencies are responsible for EUROPOL mandated areas:

Police Board

Central Criminal Police

Security Police Board

Tax and Customs Board

Board of the Border Guard.

All these bodies are of a civilian nature, except the Board of the Border Guard. All the abovementioned agencies of course have internal regulations and coordination for the collection and dissemination of information. There are no co-ordinating bodies between the agencies. As far as cross-border cooperation with or through EUROPOL is concerned, the co-ordinating body is the ENU, which is a structural unit of the Central Criminal Police.

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3. INTERNAL ORGANISATION OF THE EXCHANGE OF INFORMATION

3.1. CHOICE OF COMMUNICATION CHANNEL

- a) The secure EUROPOL line is used for the exchange of information and intelligence between EUROPOL and our ENU.
- b) The channel used for communication with other MS depends on the particular case or offence involved. It can be EUROPOL or INTERPOL and with some countries also liaison officers. However, if there is a broader dimension to the case or if several MS are involved, EUROPOL is preferred.

The choice of communication channel is made case-by-case and is based on best practice. It is planned to draw up more specific guidelines.

EUROPOL is used to exchange information and intelligence, depending on EUROPOL competence. The most important rule is that one channel should be used throughout a case.

INTERPOL is one possible channel for exchanging information at international level and putting international police cooperation into practice. INTERPOL plays an important role in many international conventions (agreements) to facilitate operational international police cooperation. Using INTERPOL information exchange channel I-24/7 it is possible to submit requests and rogatory letters to the legal authorities of INTERPOL Member Countries.

Using INTERPOL information exchange channel I-24/7 it is possible to get police information etc., including police information gathered from different databases. The I-24/7 system is comprised of a nominal database: photographs, fingerprints, notices etc. and the Stolen/Lost ID Documents, Stolen Vehicle, Stolen Works of Art and Payment Cards Databases etc.

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Usually the rogatory letters and requests which are sent via INTERPOL channels are made to fulfill procedural acts which do not require separate approval by a prosecutor or permission from a judge. INTERPOL is mainly used to communicate with non-EU Member States.

The EUROPOL liaison officer (ELO) plays an extremely active role in information exchange. He is the first line of contact in any information exchange and will make background checks on all requests received from EUROPOL and Member States. This is possible as ELOs have access to Estonian databases. Simple requests will be answered by the ELO immediately and information will be entered into the National Information System, where it will be available for designated officers. The requests which need further work in the Member State will be forwarded to the ENU.

Requests forwarded by Estonian authorities to EUROPOL and Member States are examined by the ELO. In most cases these requests are also translated by the ELO. If additional information is needed, the ELO will make contact with the case officer in the ENU.

The ELO also makes sure that requests are answered in a timely fashion and co-ordinates activities between authorities in international operations.

The ELO gives added value to information exchanged via EUROPOL.

There are no specific regulations regarding the distinction between bi- and multilateral cases. From a practical point of view, multilateral cases are more likely to become complicated and therefore a central co-ordinating body such as EUROPOL is again preferred for cooperation. EUROPOL is used in bilateral cases as well. But it depends again on the situation, how complicated the question is, etc. and therefore other available channels can also be used (such as INTERPOL, liaison officers or direct contacts).

Cooperation with EUROPOL (or INTERPOL and in the future Schengen) can take place only through the Central Criminal Police. No other agencies have such secure channels for communication with or through international organisations. Communication between different agencies is arranged in several different ways – liaison officers are posted to the Central Criminal Police (Tax and Customs Board and Board of the Border Guard), electronic communication channels are encrypted or files can for example be sent through a database. Such information channels are of course protected.

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4. EXTERNAL EXCHANGE OF INFORMATION

4.1. DATA EXCHANGE PROCESS

No statistical figures are available on the volume of the exchange of information between different countries. However, from an empirical point of view it can be said that both the quantitative and the qualitative perception of the exchange of information grows in proportion with geographical, historical, cultural, ethnographical and economical factors, situations and links (i.e. if such figures were available, Finland would probably be at the top of table).

For the above reasons, the major partners among the EU Member States are Baltic Sea countries.

The rules set out in the corresponding legislation are followed by internal regulations, both on technical and organisational measures.

A FINESTO joint unit exists with the Finnish Central Criminal Police. FINESTO is located in the CID on both sides and contact officers from customs are roped in as well. In practice this form of cooperation with Finland covers daily operational information exchange. Whenever an offence or case is detected which should be handled with or through EUROPOL, of course EUROPOL will immediately be involved.

4.2. INFORMATION OWNERSHIP

No problems have been experienced relating to information ownership as law enforcement authorities use the same information evaluation system as EUROPOL and practices and legislations are similar to those of other European countries.

Estonia has experienced delays in both directions – replies to requests from other countries have been late and vice versa. In all the cases the reasons are specific and can not be generalized. However, it is not a common occurrence and the reasons for the delays have usually been explained.

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5. EXCHANGE OF INFORMATION BETWEEN MEMBER STATES AND EUROPOL

5.1. DEFINITION OF INFORMATION AND INTELLIGENCE

There is no legal definition of intelligence available. Information which can be linked to a person and involves data on criminal investigation or relevant suspicion is called sensitive data which cannot be released to a third person before a public hearing in court (Act on Public Information). Information gathered using specific undercover methods such as technical or human surveillance or secret sources is called surveillance information and cannot be made public. Such information will be revealed if used as evidence in court. However, information which could reveal the working methods of the police or interfere in any way with the fulfilment of police tasks will not be made public.

Estonia provides EUROPOL with information at different stages of an investigation. It is mainly up to the investigator to decide when and to what extent he will forward information to EUROPOL. Often information is provided in the very early stages of an investigation, when international cooperation is needed. Sometimes the information is provided after a request has been received from a Member State or EUROPOL. There are no criteria for deciding at what stage information should be forwarded, it depends on investigation and cooperation requirements.

The basic conditions for information to be forwarded to EUROPOL are that it should be of high quality and up to date. Handling codes should also be indicated, and the reliability of the information. As far as the quantity of data is concerned, there are no requirements. It might be just a single name or telephone number which might be important for an AWF and/or another Member State or a full overview of the whole case.

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5.2. NATIONAL EUROPOL UNIT

Within the Central Criminal Police there is a Criminal Intelligence Department (CID) which is the national contact point for international communication and information exchange using both EUROPOL and INTERPOL and in the context of bi- or multilateral projects. This unit is the ENU. All case officers and front desk officers are skilled in languages (at least English) and in relevant national and international legislation as well as operational knowledge. Technical resources (such as computers, phones etc.) are adequate.

The ENU is entitled and enabled actively to seek information and intelligence if it is not available in the respective unit or organisation. Intelligence sources are observed by the unit responsible and all relevant databases and other sources.

In the ENU there is a contact officer from the Tax and Customs Board and one from the Board of the Border Guard. Next to the liaison officer from the Central Criminal Police a liaison officer from the Tax and Customs Board is posted in EUROPOL. There are no ENU contact officers posted to other national authorities.

The ENU is responsible for providing all relevant information produced by EUROPOL to all the relevant authorities.

5.3. USE OF INFORMATION AND EUROPOL ANALYSIS CAPABILITY

Estonia's policy regarding AWFs is that Estonia wants to contribute relevant information to any AWF if required, even if the information does not have a particular interest in it at the moment. If Estonia participates as a member in an AWF it also provides information to the AWF.

Not all the existing AWFs are relevant for participation by the Estonian law enforcement agencies. The AWFs in EUROPOL are initiated to tackle specific crime areas and have limited scope. Most AWFs therefore have no connection to Estonia and there is no need for participation. Estonia participates in AWFs with links to Estonian criminal groups.

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5.4. PERCEPTION OF EUROPOL VALUE

EUROPOL is expected to give an added value to the Member States' information by means of analyses. EUROPOL fulfils these expectations well.

EUROPOL has given added value to cases by making analyses and providing Estonia law enforcement authorities with other information from the Member States which is relevant to national investigations.

Qualitative perception is very hard to assess as the needs of every unit are different. Very often EUROPOL products are very specific and only an expert can assess their quality. Questionnaires on assessment of different products are frequently sent by EUROPOL and completed by Estonia.

6. EVALUATION BY THE EXPERT TEAM

6.1. INTRODUCTION

The evaluation of Estonia took place from 14 to 16 March 2006. Estonia has an area of about 45 000 km² and a population of 1 364 100, representing a population density of about 30 people per km². Almost one third of its population, i.e. 400 000, lives in the capital, Tallinn. With Finland, it is Europe's most north-easterly territory and apart from its maritime border with Finland, from which it is separated by the Gulf of Finland, its two main borders are with Russia to the east and Latvia to the south. Estonia was formerly a part of the former Soviet Union, and re-gained its independence on 20 August 1991. According to official statistics, the average age in Estonia is 39 and around 67% of the population speak Estonian as mother tongue and 30% Russian. There is an annual growth rate of around 7% and a strong development of very sophisticated new technologies – for example, there are around 1 million mobile phones in circulation. Serious crime levels are fairly high in Estonia (4 274 in 2005, i.e. around 8% of all crimes, although most crime is property-related (68% of all crimes)).

Aware of the rise in cases of drug trafficking, illegal immigration, frequently for transit purposes, and money laundering, the law enforcement authorities have adopted a number of highly-effective instruments which the evaluation mission examined in detail and which will be described below.

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6.2. INTERNAL ORGANISATION OF EXCHANGE OF INFORMATION

6.2.1. The Estonian Police was re-established by the Police Act under the jurisdiction of the Ministry of the Interior. The Act, which was passed on 20 September 1990, laid down the transitional period during which the Soviet Militia was to be dissolved and the Estonian Police formed. That period ended on 1 March 1991, the date on which the Estonian Police was re-established. Until 2003 Estonia had 17 police prefectures, but since January 2004 the number has been reduced to 4 under a police reform programme, which also introduced other reforms, including:

- reorganisation of the Personal Protection Service to form the Central Law Enforcement Police
- specification of the functions of the Central Criminal Police
- restructuring of the Police Board
- joining up of the Police School and the Police College of the Public Service Academy.

6.2.2. The central supervisory authority is the Estonian Police Board which manages, directs and coordinates the activities of all police agencies under its administration. The Police Board is also responsible for the development of new working methods, technological support and international cooperation. The Ministry of the Interior is also responsible for immigration services, processing asylum applications, the issue of visas and prison management, so the Ministry's strategic action policy ensures excellent coordination between departments. Under the authority of the Minister for the Interior, seven main directorates administer the activities of the following bodies:

– the Security Police, the Border Guard, the Citizenship and Migration Board, the Police Board, the Rescue Board, the Data Protection Inspectorate and the Public Service Academy. The Police Board itself is composed of three national units: the Central Criminal Police (CCP), the Central Law Enforcement Police and the Forensic Service and Criminalistics Centre. In addition to these three large national units there are four Police Prefectures (Northern, Eastern, Western and Southern). The Central Criminal Police coordinates the activities of the criminal police throughout the country and international criminal police cooperation.

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The CCP investigates:

- crimes committed by criminal organisations
- drug-related crime, economic crime and IT crime outside the purview of the PPs
- crimes related to money-laundering
- crimes requiring extensive international cooperation or central action because of their danger to society.

The main tasks of the Central Law Enforcement Police are:

- to analyse and coordinate the activities of the police in the field (e.g. crime prevention)
- to participate in public order maintenance and traffic supervision
- to conduct misdemeanour proceedings
- to protect the President, the Chairman of the Parliament, the Prime Minister and official guests of the state
- to guard property designated by the Government.

6.2.3. According to the information supplied to the experts, the Estonian Police now has a staff complement of 4 575 of which 3 412 are police officers, the remainder being civilian staff. Although the evaluation mission was unable to visit regional or local police stations, it appears that the force is very well equipped. There are 3 400 computers for a total of about 3 900 users. Moreover, according to the figures provided by the Estonian police, 3 500 police officers use IT systems and there are 141 connections to the police IT network. In this respect the police force seems to have very advanced equipment. For the internal organisation of information exchange, the police use two main systems:

- POLIS, which is a data file for incident reports, processing of crimes and misdemeanours and statistical reports.
- KAIRI, which is the single information system for all the Law Enforcement Authorities. This information system also contains intelligence data.

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6.2.4. The police authorities intend to reorganise the police information system and create e-services between April 2005 and April 2007. The two main reforms will be to develop the information society under the European Development Fund (ERDF) and create a new architecture for POLIS, developing services for individuals and authorities, such as a map server. Adding to that the police authorities also intend to participate in the e-file project conducted by the Ministry of Justice during the same period.¹

6.2.5. From the technical point of view, the experts noted the major investment made by the Interior Ministry in deciding to equip its patrol vehicles with terminals enabling patrol crews to access databases (of a total of 400 police vehicles, 125 vehicles were equipped in 2004 and a further 108 will be by the end of 2006). With these on-board terminals police officers can now access the stolen vehicles database, the wanted persons database and immigration data. This strategy, which will reduce the use of traditional radio equipment, is certainly an example to be followed by those Member States which intend to implement IT strategies to encourage the development of telecommunications tools.

6.2.6. The Estonian authorities have set out a strategic plan for implementation by 2010. Currently there are three priorities for action:

- the fight against drugs, particularly trafficking in synthetic drugs, by reducing demand;
- implementation of the Schengen Convention;
- combating corruption.

Among the other ministerial priorities are combating crime against minors and combating international organised crime. All these policies are established at an annual conference in liaison with the Interior Finance and Justice Ministries. To achieve that goal national authorities take into consideration national criminality reports and threat assessment of EUROPOL. In the future the OCTA methodology will be applied as a national data collection plan.

¹ See the e-file project, page 24, paragraph 6.2.23.

RESTREINT UE

6.2.7. In the course of the evaluation the experts met senior staff at the Northern Police Prefecture, which covers about 38% of the total population. The key feature of the method used in Estonia is that this Prefecture, like the other three, uses the same databases as those used at central level¹. The experts noted the excellent interpreting service in this Prefecture (the languages used being Russian, Finnish and Swedish). For investigations the Prefecture organises regular meetings between departments whenever necessary. At central level, information passed on from the regional services is constantly monitored and if it is deemed necessary, the central services circulate all or some of the information collected to other services more directly or operationally involved². It appears that the most profitable contacts are those based on personal relations between officers. The Prefectures also have international contacts and there are a number of agreements with a number of capitals of the Baltic Sea area. These agreements mainly concerns non operational matters.

6.2.8. However, the weak point in the Prefectures seems to be their lack of truly professional analysts. There are no regional analysis teams, only analysts for cases involving drugs and property-related crime who have had no special training and merely study prevailing crime trends. The same problem exists at the Central Criminal Police, which has only three tactical strategic analysts in total.³ However, despite this lack of staff, the experts were impressed by the excellent work done on numerous investigations. This success was due mainly to the multifunctionality of the KAIRI system, but also to the fact that the KAIRI database is a common information system and intelligence database. The database is fed and shared by the Police Board, the Tax and Customs Board, the Border Guard Board and the Prisons Security Division. As several law enforcement authorities share the content of the KAIRI database, it might be an idea for the Estonian authorities to train analysts common to the different law enforcement bodies who could then apply their skills in the service of whichever agency needed them, depending on the priorities or emergencies of the moment.

¹ The Coast Guard service and the Tax and Customs Authority also use the KAIRI database.

² Always subject to the agreement of the service which initiated the investigation.

³ From July 2006 within the ENU, an analysis unit has been created (4 officers) which is responsible for data collection plans, intelligence monitoring and organised crime threat assessment.

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This good situation has to be balanced with the shortage of police officers, whose numbers fell from 7 312 in 1993 to 3 412 in 2005 as a result of two factors: firstly, political and administrative reorganisation following independence and secondly, losses due to the attractiveness of private sector salaries. The recruitment situation appears to be one of the biggest problems the Law Enforcement authorities, and especially the Police, are facing. Very few candidates are participating in the recruitment procedures and numerous police officers are leaving the services in order to work for banks and other private companies.

Police officers are also leaving the police for the Customs, where the conditions of employment are clearly more attractive. Presently, more than 10 percent of the positions in the Police force are vacant.

6.2.9. After independence the Estonian authorities merged the Customs Board with the Tax Board in 2003 in order to rationalise their activities. Not only did this reform enable economies of scale to be made, but it also led to improved cooperation with the other law enforcement authorities. The separation of the Tax and Customs Board into 4 regional divisions, coinciding with the number of police prefectures, also facilitates communication between services. Working on the principle that only intelligence analysis can produce maximum results for the investigation services, the structure of the central investigation directorate has been subdivided into two sub-directorates: one in charge of intelligence and the other in charge of investigations. Having formerly applied a reactive strategy, this service now takes an increasingly pro-active approach. The Tax and Customs Board accordingly provides the following: analysis needs, support solutions to other departments and fraud criteria. It also determines which goods are to be checked, the evaluation criterion being the loss of State revenue. To achieve optimum results, the Tax and Customs Board applies predefined priorities in its investigations. Those priorities must fulfil the following criteria:

- criminal cases involving multiple offences (money laundering, forgery etc.)
- dealing with chain offences
- offences committed in the sphere of heightened risk
- prognosis for the success of proceedings and likelihood of prosecution.

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The Estonian Tax and Customs Board (ETCB) operates under the aegis of the Ministry of Finance. The ETCB has a management function and, being a law enforcement agency, exercises state supervision ensuring compliance within the limits of its competence and powers as provided by law.

6.2.10. The basic tasks of the ETCB are the direct management of customs activities, on the basis of the tax and customs policy approved by the Government of Estonia, implementation of tax and customs regulations and ensuring the proper collection of tax and customs revenue. The ETCB's activities are governed by the laws of the Republic of Estonia, Estonian government regulations and other legal acts.

The Taxation Act, the National Customs Code and the statutes of the ETCB set out the main tasks and responsibilities of the ETCB. The Estonian Tax and Customs Board performs its tasks in cooperation with other ministries, administrations, local authorities and other relevant institutions. The ETCB cooperates with the tax and custom authorities of other relevant institutions. The ETCB cooperates with the Tax and Customs authorities of other countries and represents Estonia in the World Customs Organisation (WCO). Estonia has been a member of the WCO since 1992.

6.2.11. The Investigation Department is a structural unit of the ETCB comprising the Coordination and Analysis Division, the International Cooperation Division, the Surveillance Division and the Põhja (North), Kirde (North-East), Lõuna (South) and Lääne (West) Regional Divisions, operating according to central management principles. The Investigation Department conducts pre-trial investigations of Tax and Customs offences, prevents, anticipates and detects criminal offences in tax and customs-related matters, fulfils obligations concerning Tax and Customs matters under foreign agreements concluded by the Republic of Estonia and cooperates with the tax and customs administrations of foreign countries and other relevant international organisations.

6.2.12. The Investigation Department also organises controlled deliveries, develops strategies for pre-trial investigations and surveillance activities, participates in drafting and recording legal acts regulating pre-trial and surveillance activities and fulfils requests for legal assistance received from other countries. The main purpose of the investigations is to identify the circumstances and facts of processes facilitating the commitment of crimes and, acting jointly with other structural units of the ETCB, to take measures to eliminate those factors.

RESTREINT UE

6.2.13. The task of the Coordination and Analysis Division is to assemble, save and evaluate information collected for the Investigation Department and to compile strategic and operative analyses. It also supports the investigation and surveillance officers of the department internally, in matters being dealt with in other divisions, organises technical support to establish and store digital information, carries out handwriting and document expertise and organises internal cooperation with other state pre-trial investigation and surveillance agencies. The Coordination and Analysis Division also co-ordinates the activities of the regional divisions. However, the experts noted that there are no actual regional investigation departments. All investigations are conducted centrally.

6.2.14. There is very close cooperation with all police departments and the Security Police. In particular, the Security Police are responsible for investigating cases of corruption and/or fraud involving senior public officials. The fact that the Customs Board has shared access to the KAIRI database facilitates information exchange and makes it possible to carry out many joint operations, during which surveillance equipment is shared between joint teams, and the fact also that former police officers work in the Tax and Custom Board's criminal investigations department should eventually lead to more systematic development of joint customs and police investigation teams, as is the case already where necessary. In 2005 131 investigations were concluded (as against 112 in 2004) and 31 cases of tax fraud involving a loss equivalent to EUR 82 million were investigated.

6.2.15. Given that the Customs and Police authorities have comparable powers to conduct investigations, it is the Prosecutor's departments which ultimately decide which authority is to handle a case. As will be explained later in this report, the judicial authorities are considering creating specialised Prosecutors to deal with fraud and money laundering, and also for international matters.

6.2.16. Given the excellent cooperation between the police and the customs authorities, the experts can only encourage the Estonian authorities to continue and build up their internal use of joint investigation teams. In view of current developments, the experts recommend the appointment of specialised prosecutors to build on the current synergy between investigations and specialised services.

RESTREINT UE

6.2.17. The Estonian Border Guard is a military body under the authority of the Ministry of Interior. As such it participates fully in national policing activities. With a total of 1 450 km of land and sea borders, the Border Guards has a staff complement of 2 347, including 455 civilian employees. In addition to the tasks normally assumed by Border Guards, the Estonian Coast Guards are responsible for air and sea search and rescue. It is interesting that next to its border patrol tasks the Border Guards have nationwide powers of control and surveillance. They have a MOU with the police services. Both administrations have access to all files relevant to police operations (citizens, passport entry bans, criminal police and vehicle registers, plus the future VIS).

However, as well as having access to this set of databases which transits through the Border Guard central server, the Border Guards also have their own database which is not accessible on-line by the other police services.¹ It is an intelligence database which the police can access only indirectly, upon request. This database is currently under new developments and accessible only centrally. Given that the Border Guards have online access to the main police databases, it would be useful if the new Border Guard database could be made accessible on-line to certain police services, subject to certain conditions, to facilitate cross-checking of information.

The Border Guard administration does, however, conduct risk analyses and publishes a weekly information bulletin which is sent to the relevant government offices at the Ministry of Internal Affairs.

6.2.18. The evaluation mission also met representatives of the FIU (Financial Intelligence Unit), which is an independent structural administrative unit linked to the Central Criminal Police. This body has two functions:

- to collect, register, process and analyse information received
- to cooperate with reporting entities, investigative bodies and police authorities in the prevention of money laundering and the financing of terrorism. If evidence of a criminal offence is discovered, the FIU decides which competent body should be allocated the case for the purpose of commencing criminal investigations:

¹ This database is not updated any more nor used by the Border Guard.

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- the Central Criminal Police
- the Police Prefecture
- the Tax and Customs Board
- the Security Police Board
- the Prosecutor's Office.

Although there is no set policy for cooperation with the police - cases are forwarded on a case-by-case basis – the fact that the FIU forms part of the Central Criminal Police facilitates day-to-day business enormously.

6.2.19. With regard to the methods used for processing information, the experts learned that the FIU receives 70% of information electronically (e-mail) and that all paper documents are scanned and the information obtained from these documents entered manually. It seemed clear to the evaluators that the equipment in place was not totally satisfactory and the Estonian authorities are planning to enhance the department's IT capacity, setting up a website to receive information forwarded by the economic actors concerned. In addition there are plans for 2005/2006 to increase the FIU staff by 10 persons (supervision) and to create an Asset Tracing Unit (5 persons). While the experts can only encourage such initiatives, which should reinforce the fight against fraud and corruption, the fact that there is no obligation to inform the FIU of cash transactions seems a severe weakness in the system. A decision to make it compulsory to inform the FIU of such transactions is planned but the experts were unable to obtain any more detailed information on this point.

The experts consider that a decision should be taken on this matter without delay, particularly with the prospect of the transition to the European currency. Also, the existence of 106 casinos in the country provides an opportunity for money laundering which can only be countered by a decision of this kind.

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6.2.20. Lastly, the inter-service chain of communication would not be complete without mentioning the role of the Public Prosecutor's Office in Estonia. It should also be noted that the Penal Code entered into force on 1 September 2002, the Code of Criminal Procedure on 1 July 2004 and amendments to the Prosecutor's Office Act on 1 July 2004.

6.2.21. There are four regional Prosecutor's Offices, which cover the same geographical areas as the police regions. There are 190 prosecutors in Estonia; 9 of them deal with international affairs and cross-border crime, and 8 others are, to varying degrees, responsible for major crime such as serious organised crime. Throughout the territory, the Prosecutor's Office conducts pre-trial proceedings, ensuring that they are lawful and effective, and conducts the prosecution in Court. Added to that, the State Prosecutor General may, in order to ensure the legality and efficiency of pre-trial proceedings, give general guidelines to a pre-trial investigation authority. In reality, these guidelines are produced at meetings between the Minister for the Interior and the Minister for Justice at which crime policy priorities are set.

The small number of Prosecutors and the rise in major crime seem to have necessitated the appointment of specialised Prosecutors. Thus, for example, there is no Prosecutor's Office specialising in major economic crime, so whenever a case arises only the Northern Circuit Prosecutor's Office can take it as the other Circuit Offices do not have the necessary resources. The plan of the Estonian Authorities which consists of naming specialised prosecutors in economic crime should be a positive step for getting a more efficient exchange of information in that matter between the different Law Enforcement Services. The experts think this project should be encouraged to facilitate and to enhance efficiency of departments involved.

6.2.22. Lastly, with the support of European funding, the Ministry of Justice has launched the e-file project (2005/2007) to put all criminal investigation files on-line so that they can be accessed by all those involved in the judicial process, such as lawyers. This is not a new database but will make all criminal files produced by the prosecuting authorities available on-line.

Possibly, this initiative should have an impact on the organisation of criminal procedure and should thus be examined by the other Member States to see if there are any benefits to be had from such nationwide innovation from information exchange and crime analysis point of view.

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6.3. EXTERNAL EXCHANGE OF INFORMATION

6.3.1. The evaluation revealed that the different law enforcement agencies are seriously committed to fighting serious international crime. Not only did all those interviewed report their interest in the field but, despite a number of problems associated with the introduction of any form of international cooperation, the Estonian authorities have set up a number of networks and structures which, in the medium and long term, should produce good results and protect the other Member States against the inevitable increase in trafficking and crime using Estonia as a base camp or bridgehead. Moreover, as Estonia now has the most easterly border of the Europe of 25, next door to the Russian Federation, the other 24 countries of the European Union have every interest in having a strong link in the chain in this part of Europe.

6.3.2. In the interests of rationalisation, all international cooperation is organised by the Central Criminal Police. The principle of this cooperation, as explained in section 6.2, is based on agreements between national agencies. Under those agreements national liaison officers from the Tax and Customs Board and the Border Guard are seconded to the Central Criminal Police. As well as these national liaison officers there is a liaison officer from Finland and an official from the Swedish Police¹.

More broadly speaking the national Estonian authorities have sent liaison officers abroad (Finland, Russia) and welcomed liaison officers from Finland, France, Netherlands, Israel, Canada, Germany and a representative of FBI.²

6.3.3. The officials interviewed expressed great satisfaction with their cooperation with INTERPOL. Cooperation with INTERPOL began in 1992 and since 1995 information exchange seems to have increased considerably. In 2004, for example, nearly 12 000 messages were exchanged with INTERPOL compared to 1 332 with EUROPOL.³

¹ Finland is the main tourist destination for Estonians and there are about 80 ferry links daily between the two countries during the summer season.

² Some of them are not located in Tallinn but cover a broader area.

³ The EUROPOL figures concerns the handling of intelligence and specifically organised crime which is not the case with INTERPOL.

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Senior police officials were clear that the services and IT resources offered by INTERPOL were very effective in operational police actions. Also, Estonia became a member of the INTERPOL European Committee in 2002 and an INTERPOL European Regional Conference was organised in Tallinn in 2002. In the context of this international cooperation numerous initiatives have been taken to develop regional cooperation, particularly with the Russian Federation.

6.3.4. Estonia has also been very active since 1998 in the Baltic Sea Task Force on Organised Crime. There are a number of operations to combat the trade in drugs, smuggling and money laundering. In this specific framework the Estonian law enforcement authorities practice enhanced cooperation more specifically with the Russian Federation, Belarus and Ukraine.

6.3.5. In 2000 the National Police Commissioners decided to establish FINESTO, a joint Estonian-Finnish working unit on prevention of drug crime. Originally financed by the Finnish Ministry for Foreign Affairs, the aim of this cooperation is for Finnish and Estonian Customs and Border Guard liaison officers to collaborate in a shared approach to law enforcement resources, with the aim of sharing all operational information received and using existing channels and networks for information exchange. During joint operations police or liaison officers may use INTERPOL or EUROPOL channels.

6.3.6. Lastly, Estonia has also set up FER (Finland, Estonia, Russia) cooperation. Begun in 2002, this cooperation is based on an agreement signed in Narva (Estonia) on 27 August 2002. The main aim of this cooperation is to combat drugs trafficking between the three countries. Regular meetings are held between the different partners and a project to extend this cooperation to other forms of crime is being explored ¹.

6.3.7. The experts were unable to evaluate this cooperation in practice but it appears to be held in high regard by the partners, particularly Finland which is very active in cooperation with Estonia. This development in international relations is illustrated by the figures provided by the Estonian Ministry of Justice - in 2004, 110 requests for legal assistance were sent by Estonia and 258 requests for legal assistance were received by Estonia. Of those requests, 9 were sent to Estonia via Eurojust and 15 were sent to Eurojust by Estonia.

¹ This cooperation could be extended to organised crime and trafficking in women.

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6.3.8. The general impression formed by the experts was that the Estonian authorities make full use of European cooperation tools and this activity will probably increase greatly in future years. That being so, the authorities would be well-advised to step up their training of officers, particularly in learning foreign languages. Taking into account that some brain drain from police officers to private sectors do exist and the existing level of salaries for police officers, police authorities should have to pay a particular attention to the possible corruption which could be favoured by this temporary situation. A such policy would reinforce mutual confidence which is vital for international operations.

6.4. EUROPOL

6.4.1. Cooperation between Estonia and EUROPOL began with a cooperation agreement signed on 10 October 2001. A liaison officer from the Central Criminal Police was seconded to EUROPOL on 26 June 2002 and an officer from Tax and Customs Board has joined this team on 05 June 2005. On 1 July 2005 Estonia became a full member of EUROPOL. According to the information and documentation received during the evaluation, Estonia's cooperation with EUROPOL is relatively high. Information exchange via EUROPOL channels is around 10% of all international information exchanges (2004).

6.4.2. While information exchange on drug-related matters has declined (from 40% to 25%), there has been a parallel rise in matters relating to counterfeiting of currency, which has risen by over 25%. Estonia is an active participant in 2 AWFs: the EEOC top 100 and SMOKE. However Estonian Authorities should be encouraged to participate in some other AWF to enhance the information exchange. The officials spoken to consider EUROPOL to be a very useful channel for matters relating to drugs, money laundering, vehicle theft and smart fraud. The experts noted that as well as police officers from the Central Criminal Unit, the National EUROPOL Unit includes a liaison officer from the Border Guard and from the Tax and Customs Board. The experts noted that in Estonia the CCP has a relatively wide margin of manoeuvre; it decides which channel for international cooperation is to be used. For letters rogatory it is not uncommon for the National Unit to use the EUROPOL liaison officers to pass them on to the country concerned. More broadly, the police services use EUROPOL via the National Unit where organised crime involving several Member States is detected. Because several branches of the law enforcement authorities are represented in the National Unit, it has access to all relevant national databases.

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This practice of direct access to national databases for officers seconded to the ENU is definitely to be encouraged and developed in those EU Member States which do not yet have such a system.

6.4.3. It was noted that the heads of the National Unit and the law enforcement agencies have decided to use the 4x4 evaluation system and to keep the EUROPOL handling codes for feeding their national information system. The fact that in future the database system for collecting and processing intelligence will be the same as that of EUROPOL should eventually facilitate harmonisation and improve quality of information sources and will undoubtedly assist EUROPOL in drawing up the OCTA by providing a reliable source of intelligence.

While the structure and operation of the ENU seem satisfactory on the whole, the service should have at least some form of translation service which at the moment it lacks.

6.4.4. Although the experts were unable to check what sort of training was provided in the Police Academy, they were told that about 10 hours of the training was spent on international cooperation, including EUROPOL. Regarding the EIS project, the Estonian authorities were prepared technically but did not envisage transferring data from national databases automatically in the near future. They had not yet decided what kind of information could be forwarded automatically to EUROPOL. The Tax and Customs Board has not yet begun discussions on this subject with the police. However, all the officials spoken to were suspicious of the idea of information being sent to EUROPOL automatically as they had no adequate guarantees that EUROPOL would send information in return. To their mind this system will never work unless all the Member States first establish a global, joint approach on the use and content of the future EIS file. Access in return to value-added information produced by EUROPOL using information supplied by the Member States should be discussed in the context of development of the EIS.

6.4.5. Regarding documents produced by EUROPOL, the head of the National Unit explained that any useful information was sent on a case-by-case basis to the relevant national departments, without prior translation. Those documents could also be sent to the liaison officers in Estonia depending on the subject-matter. To conclude, the Estonian authorities wanted EUROPOL to be more involved in analysis work with regionally-themed subjects or priorities. Their vision of the future EUROPOL would be as an agency for the analysis and operational and strategic support, rather than a body with executive operational powers. The Estonian police chiefs also said they did not want EUROPOL to serve as an administrative support for the Police Chiefs Task Force.

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The expansion of EUROPOL as a platform for non operational entities is seen as a risk for the development of operational role of EUROPOL. Estonia's police representative in EUROPOL referred to the excellent cooperation between the national authorities and the other Member States, which was also due to the fact that Estonia's EUROPOL office had direct access to all the national information systems. Wherever possible, better access to national databases by liaison officers seconded to EUROPOL should be encouraged.

7. GENERAL CONCLUSIONS AND RECOMMENDATIONS OF THE EXPERT TEAM

The evaluation of information exchange showed Estonia to be a Member State with all the tools needed for efficient cooperation with its partners. Since accession to the European Union Estonia has introduced numerous reforms which have undoubtedly led to high-quality internal and international information exchange. For instance, merging the Tax and Customs departments has led to more integrated information exchange with the police. The multi-faceted international and regional cooperation framework, including the Baltic Sea Task Force and FINESTO, have also produced very focused action on regional problems.

The fact that the Estonian authorities allow extensive access to data between ministerial departments and that an intelligence database is shared by several ministerial departments undoubtedly makes for effective internal and international cooperation. All the recently introduced changes augur well for the future. The existing infrastructures and excellent cooperation, both domestic and international, with its direct neighbours, should enable Estonia to introduce the Schengen rules without problems. However, the experts are duty bound to point out the problems with recruitment of police officers, due mainly to the attractiveness of private sector salaries. This situation, which is unlikely to be temporary, further underscores the idea that economies of scale or new synergies can still be found between ministerial departments to improve international cooperation. Also the investment in human resources should be secured promptly before the problem affects the efficiency of the Law Enforcement Authorities.

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7.1. FOR ESTONIA

7.1.1. Develop joint training of analysts who can apply their skills in the service of both the police and/or the other law enforcement agencies. (See 6.2.8)

7.1.2. Continue the development of joint investigation teams composed of officers from the Estonian Police Board and the Tax and Customs Board and try to extend this method to other law enforcement authorities when possible and necessary. (See 6.2.14)

7.1.3. Take appropriate measures to ensure sufficient recruitment and avoid brain drain of police forces. (See 6.2.8 and 7.6).

7.1.4. Encourage the training of Prosecutors specialised in international matters and economic crime to be very liaise with specialised investigators of joint investigation teams. (See 6.2.16 and 6.2.21).

7.1.5. Establish a national legal basis for informing the FIU of cash transactions (See 6.2.19).

7.1.6. Adopt a foreign language training policy particularly for officers dealing with international cases (See 6.3.8).

7.1.7. Provide the ENU with an operational translation service. (See 6.4.3).

7.1.8. Consider participating in some others AWF to enhance the information exchange. (See 6.4.2).

7.2. FOR EUROPOL

7.2.1. Contribute to the training of analysts of Estonian law enforcement agencies. (See 6.4.5)

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7.3. FOR THE OTHER MEMBER STATES

7.3.1. For countries planning to set up a new national intelligence system, study the concept applied in Estonia with a centralised law enforcement intelligence system. (See 6.2.3. and 6.2.8.).

7.3.2. As far as possible, extend access to national databases by liaison officers seconded to EUROPOL and by all officers seconded to national ENUs. (See 6.4.2)

7.3.3. Explore the possibility of placing on-line files concerning investigations and criminal proceedings in order to rationalise and accelerate the provision of information to all the links in the criminal justice chain (See 6.2.22)

7.3.4. For those countries concerned, develop wherever possible the use of onboard electronic devices in the vehicles of law enforcement authorities involved in fighting serious crime, so that they can have access in real time and in all circumstances to the relevant databases. (See 6.2.5)

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ANNEX A

PROGRAMME OF VISITS

March 14th 2006, Tuesday

09.30-10.00 Meeting with the Head of the Central Criminal Police
10.15-11.00 Introduction to the national legal and law enforcement system
11.00-12.30 Overview of the Central Criminal Police especially the EUROPOL National Unit
12.45-14.00 Lunch
14.15-14.45 Meeting with the Deputy National Police Commissioner
14.45-15.30 Overview of the Police Board and regional Police Prefectures
15.45-17.30 Visit to the Northern Police Prefecture
Dinner

March 15th 2006, Wednesday

09.30-11.30 Meeting at the Investigation Department of the Tax and Customs Board
11.45-12.30 Meeting at the Security Police Board
12.45-14.00 Lunch
14.15-15.45 Meeting at the State Prosecutor's Office
16.00-17.00 Meeting at the Board of the Border Guard
Dinner

March 16th 2006, Thursday

09.15-10.15 Overview of immediate crossborder cooperation (Finesto etc)
10.15-10.45 Overview of the Estonian Financial Intelligence Unit
10.45-11.30 Overview of analytical work at the Central Criminal Police
11.45-12.30 Lunch
Departure of the team of experts

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ANNEX B

LIST OF PERSONS MET

CENTRAL CRIMINAL POLICE

Elmar Vaher	Deputy National Commissioner at the Central Criminal Police
Lenno Reimand	Director of Intelligence
Märt Palo	Police Adviser, Investigations Department
Reigo Reimand	Superintendent, CID, Crossborder Cooperation Division
Sergo Eelmäe	Superintendent, CID, International Legal Aid Division
Heiki Heinla	Superintendent, CID, Communications Division
Martin Ilumets	Liaison Officer in Finland
Peeter Palo	Liaison Officer at EUROPOL
Reijo Valgjärv	Chief Inspector, CID, Crossborder Cooperation Division
Anneli Kolgo-Makki	Chief Inspector, CID, Crossborder Cooperation Division
Dmitri Rudakov	Chief Inspector, CID, Crossborder Cooperation Division
Ülle Holm	Senior Inspector, CID, Crossborder Cooperation Division
Dorel Käosaar	Senior Inspector, CID
Juta Erisalu	Chief Specialist, CID, Information Systems Division
Inga Vaher	Chief Inspector, FIU
Andrus Padar	Chief Superintendent, Analysis and Planning Bureau

POLICE BOARD

Erki Nelis	Deputy Director General
Raul Savimaa	Police Adviser, Police Work Department
Ülle Raig	Lawyer

PÕHJA (NORTHERN) POLICE PREFECTURE

Eerik Heldna	Police Director, Crime Department
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TAX AND CUSTOMS BOARD

Enriko Aav	Director General
Marek Helm	Deputy Director General
Priit Pastarus	Deputy Director of Investigations Department

SECURITY POLICE BOARD

Aldis Alus	Director General
Meelis Rataspepp	Director of Administrative and Legal Department
Peeter Oissaar	Superintendent

PROSECUTOR'S GENERAL OFFICE

Norman Aas	Chief Public Prosecutor
Margus Kurm	Chief State Prosecutor
Eve Olesk	State Prosecutor
Kristel Praun	Assistant Prosecutor

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BOARD OF THE BORDER GUARD

Aare Evisalu
Inge Lindsaar

Chief of Staff
Chief of Intelligence Department

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ANNEX C

LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ENGLISH TRANSLATION OR EXPLANATION
AWF	EUROPOL's Analytical Work Files
CCP	Central Criminal Police
CID	Criminal Intelligence Department
EIS	EUROPOL Information System
ELO	EUROPOL Liaison Officer
ERDF	European Development Fund
ETCB	Estonian Tax and Customs Board
FER	Agreement on drug cooperation between Finland, Estonia and Russia
FINESTO	Joint team on prevention of drug crime between Estonia and Finland
FIU	Financial Analytical Unit
KAIRI	Information system for all LEA
OCTA	Organised crime threat assessment
POLIS	Datafile for incidents reports
PP	Police Prefecture
VIS	Visa Information System