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The Challenges of Intelligence Cooperation within the European Union

A Case Study Analysis of the European Union's Intelligence Cooperation with the emphasis on Counterterrorism

Bachelor's thesis in European Studies with Political Science

Supervisor: Viktoriya Fedorchak

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Abstract

With the COVID-19 pandemic entering its final stages and with the reopening of Europe, once again the threat of terrorism arises. Intelligence, as one of the main counterterrorist measures of the European Union (EU), could be considered a challenging area of cooperation and integration. Through the recent decades there has been several measures to strengthen the EU's role as an important intelligence actor and coordinator. Which has drawn forward conflicting interests between privacy, autonomy and intelligence sharing to ensure European safety.

This thesis aims to analyze if Liberal Intergovernmentalism (LI) explains the challenges regarding EU's intelligence cooperation, with the emphasis on counterterrorism. It seeks to explain why autonomy, state preferences and historical roots limits the EU's capabilities within this policy area. This study resulted in LI providing an explanation through four hypotheses on intelligence cooperation in the EU.

Sammendrag

Med COVID-19 pandemien på vei i sin siste fase, og med gjenåpningen av Europa. Trekker nok engang frem trusselen om terrorisme. Etterretning er et av de viktigste tiltakene EU innehar for terrorbekjempelse, et område som kan betraktes som utfordrende i forbindelse med samarbeid og integrasjon. Gjennom de siste tiårene har det vært iverksatt flere tiltak for å styrke EUs rolle som en viktig etterretningsaktør og koordinator. Noe som har trukket frem motstridende interesser mellom personvern, autonomi og etterretningsutveksling for å bevare europeisk sikkerhet.

Denne oppgaven har som formål å analysere om LI kan forklare utfordringene rundt EUs etterretningssamarbeid med søkelys på antiterror. Samt forklare hvorfor autonomi, statlige preferanser og historiske røtter begrenser EUs muligheter innenfor dette politikkområdet. Denne oppgaven resulterte i at LI ga en forklaring gjennom fire hypoteser på etterretningssamarbeidet i EU.

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List of Abbreviations

CIA	Central Intelligence Agency
CJEU	The Court of Justice of the European Union
CSDP	Common Security and Defence Policy
CTS	Counterterrorist Strategy
ECHR	European Convention of Human Rights
ECTC	European Counter Terrorism Center
EP	European Parliament
EU	The European Union
EUISS	The European Union Institute of Security Studies
FBI	Federal Bureau of Investigation
FRA	The European Union Agency of Human Rights
IntCen	The European Union Intelligence and Analysis Center
JHA	Justice and Home Affairs
LI	Liberal Intergovernmentalism
TEU	Treaty of the European Union
TE-SAT	The European Union Terrorism Situation and Trend Report
US	The United States of America

1. Introduction

According to the Eurobarometer issued in 2021, terrorism was considered the second biggest security threat toward the European Union (EU) by the European citizens, just surpassed by immigration (Eurobarometer, 2021, p. 47). While there has been a slight decrease in terrorist attacks from 2018 to 2020, but the trends from the last decade have been quite unpredictable (Europol, 2021; European Council 2022). This depicts that terrorism is a highly substantial issue in 2022, now that the COVID-19 pandemic is entering its final stages and the society is slowly getting back to normal. This arises the question regarding the EU counterterrorism policy. As the life of 500 million European citizens comes back to normal, is the EU itself prepared to cope with an increased security threat concerning terrorism?

The date 9/11 2001 is regarded as one of the biggest earthquakes in security policy within the last decades which shaped the course of modern security policy in the world. The perception of terrorism went from being a domestic issue to a transboundary, which pictured the need for cooperation to ensure Europe's safety. Intelligence, as one of the main tools to prevent and fight terrorism became ever so important, but intelligence itself is as sensitive which one could comprehend. The European Commission later initiated further integration on intelligence, but it has proven to be a rather difficult task (Bures, 2016, p. 60). Moreover, due to the understanding that this was a bilateral issue, Member States have argued that it should be treated as such. Thus, making it challenging for the EU to coordinate and enhance cooperation.

In 2022 the European Parliament (EP) published an assessment of the effectiveness of the implemented policies on counterterrorism containing evidence that the policies had significant challenges regarding coherence, effectiveness and regulation (Burchett & Weyembergh, 2022, p. 7-8). The efforts of enhancing the information flow between states and the initiation of an increased common database containing shared intelligence, was considered by the Grand Chamber of the Court of Justice of the EU (CJEU) as a breach towards fundamental rights (Grand Chamber, 2020). Moreover, the preservation of national security was of greater importance, than the combat against terrorism and transboundary crimes (Grand Chamber, 2020). Thus, exhibiting some of the challenges within the EU's efforts to further integrate and enhance intelligence cooperation between its member states. The conflict of interest between data security, privacy and sharing intelligence to protect citizens from potential terrorism could be considered as one of the greater issues regarding the security of EU citizens. Moreover, with the importance of the four freedoms of the EU, and the lack of border control gives potential terrorists an arena to roam freely. Thus, illustrating the importance of a functioning intelligence cooperation, coping with the threat in an effective manner and ensuring European security.

Article 4(2) of the Treaty of the European Union (TEU) states "National security remains the sole responsibility of each Member State"- (Official Journal of the European Union 2016), thus illustrating the limitations the treaties put on the EU to manage such a transboundary issue. Also, through the recent decades several measures have been initiated to strengthen the EU's role as an international actor on counterterrorism and as an intelligence hub.

The thesis highlights and discusses the challenge the EU face within the intelligence sphere on counterterrorism. To do so, the thesis presents the EU's counterterrorism strategy and how it has developed from non-existing to one of the most important aspects of the Common Security and Defence Policy (CSDP). Subsequently, the thesis

presents the actors and institutions involved within counterterrorism and intelligence. In addition, the thesis uses Liberal Intergovernmentalism (LI) as its theory, to analyze the empirical findings. The thesis research question is: *"How can Liberal Intergovernmentalism explain the intelligence cooperation within the EU with the emphasis on counterterrorism, and what limits EU's capabilities within this policy area?"*

The thesis will be divided in four different sections. Section two presents the chosen methodology, giving insight to the data collected and providing a literature review. Thereafter, it gives a conceptualization of Liberal Intergovernmentalism, which provides the analytical tools for the analysis. The third section elaborates on how the EU's counterterrorist policies has developed and provides contextual information. In section four there is an empirical analysis with the tools provided in the theory and methodology chapter. The analysis is separated into four different sub-sections: Historical intelligence sharing, State and Organization, Europol's role, limits and possibilities. The thesis also discusses whether LI provides an explanation on intelligence cooperation in the EU based on the empirical findings. Finally, the thesis presents its key findings and concluding remarks.

2. Methodology and Literature review

2.1. Methodology

The thesis uses qualitative method, as it is a case study of the intelligence cooperation within the EU. The thesis uses both primary and secondary sources in terms of collection of data. The thesis is a case specific document study, whereas the empirical evidence is built upon previous research and official documents (Tjora, 2017, p. 183). The method of documents study could be used when there is analysis of existing documents, either through pure document studies or through secondary data as previously done research (Tjora, 2017, p. 183). This thesis will primarily be focused on previous research, since intelligence is an area connected to secrecy and to collect valuable primary data would be challenging. However, it would use assessments and information collected from or published by EU institutions. The documents and research used in the thesis will be issue-specific towards the topic of the paper. Depicting challenges within different areas that touches upon intelligence and intelligence cooperation.

As there are many agencies and institutions involved within intelligence and counterterrorism, a general approach is necessary. Elaborating only on the most relevant agencies and institutions. All agencies and policies regarding the topic would be interesting areas of research, but because of the thesis' perspective it will not emphasize this. Previously, the area of intelligence has not been heavily studied, however during the last decades it has gained interest scholarly (Ates & Erkan, 2021, p. 231). In addition, the concept of intelligence cooperation is far less studied than obstacles connected with intelligence cooperation (Ates & Erkan, 2021, p. 231). This is something that will characterize the thesis.

The analytical section of the thesis uses LI as its theory to detect different aspects of why intelligence cooperation is as it is. Through different aspects of intelligence cooperation: historical roots, state and organization, Europol, possibilities, and limitations. Four hypotheses' will be used to detect whether LI could be used to describe intelligence cooperation within the EU.

Finally, the empirical evidence laid forward through the analytical tools of the theory, will provide an image on how the intelligence cooperation within the EU works and what constrains it.

2.2. Literature review

The existing literature within intelligence and intelligence cooperation in the EU is scarce, and mostly emphasizes challenges in relation to cooperation (Ates & Erkan, 2021, p. 231). In addition, the information regarding intelligence is hard to access as much is not available to the public. Therefore, the thesis will be based on publicly accessible sources such as previous research and official publications of the relevant institutions. This makes it difficult to see the effect on the counterterrorist policies and intelligence cooperation, as the availability of quantitative data is limited (Bures, 2016, p. 60).

Burchett and Weyembergh, (-2022), is an assessment of the effectiveness of the EU counterterrorism policy, being an in-depth study requested and published by the European Parliament. Firstly, it describes how counterterrorist policies have developed into what it is today. Secondly, it assesses the impact and effectiveness of the policies, and what measures and tools the EU inhabits. It touches upon relevant EU actors and institutions and discusses their role within EU counterterrorist strategy. Concludingly, it suggests different policies that would be beneficial for developing counterterrorist policies, as well as pointing out some of the weaknesses of the current EU counterterrorist policies. This assessment provides valuable data for the contextual and historical section of this thesis, as most of the information used in this assessment is collected from the EU, either from the institutions or via interviews with relevant employees. However, it does not give a very deep insight within intelligence, but only briefly mentions it in terms of its role. Hence, it's an assessment of counterterrorism policies and not intelligence policies.

Fägersten (-2010), provides an analysis of the gap between government ambitions and the outcomes of intelligence cooperation within the EU with an emphasis on the case of Europol (Fägersten, 2010, p. 500). It provides valuable insights regarding how the different agencies are reluctant to participate in intelligence sharing with Europol. However, one of the weaknesses of this article is that it is published in 2010, because of the rapid developments within the policy area, the findings within this article might be outdated, and that is an important factor to consider.

The study by Fägersten, (-2016), published by the European Union Institute of Security Studies (EUISS) gives a brief insight within the developments to intelligence cooperation, what are the biggest challenges, the roles of the Member States and how it could be developed. This gives valuable oversight and providing more updated information connected with Fägersten, (-2010). Nevertheless, it is a short article and only touch upon the surface of the topic without using any theories of integration, simply provides relevant information.

Bures, (-2011), provides in-depth empirical data regarding EU counterterrorism policy, through its four-part structure. It discusses terrorist threats, responses, and the historical development in part one. The two following parts discusses the EU agencies involved and the legal instruments utilized. The last part assesses current dilemmas and future prospects. Oldrich Bures is one of the main authors within counterterrorism policies and intelligence in the EU, making him an important contributor the thesis.

Den Boer, (-2015), addresses the EU's emerging role within intelligence, and counterterrorism, touching upon other questions regarding security. Boer argues that intelligence becomes a hybrid as the EU only holds light powers in terms of oversight on ownership and integrity of the data (Den Boer, 2015, p. 402). Moreover, Boer highlights challenges regarding the sensitivity and how information flows between bureaucratic channels. The article provides valuable and up-to-date information for this thesis.

Müller-Wille (-2008), uses a functionalist approach on the effects on international terrorism on EU intelligence cooperation (Müller-Wille, 2008, p. 49). It portrays the challenges the EU stands upon as a centralized intelligence hub, and how it could damage valuable data when exchanging sensitive information. However, this is the oldest article used in the analysis, and some parts of the article is not up to date. Nevertheless, the parts used in the analysis are carefully chosen in terms of the changes that has happened over the years. Hence some of the issues are still relevant today. The article is also cited in several newer studies, thus demonstrating its relevance today.

Furthermore, the thesis uses official publications from the EU. Reports from the European Union Agency for Human Rights (FRA), European Convention for Human Rights (ECHR), and the Venice Commission, are used to discuss implications regarding surveillance and restrictions for the exchange of sensitive data in relation to intelligence. These give valuable insights to the different aspects of intelligence sharing and the sensitivity of the information, as well as the effects on other policy areas.

3. Theory

Within the development of the EU, there has been efforts of theorizing integration, from the early days of neofunctionalism and intergovernmentalism later supranationalism, LI and constructivism. Integration theories give insight to the supply and demand for integration and provide explanations for why and how integration has occurred (Leuffen, Rittberger & Schimmelfennig, 2013, p. 34). In this part of the thesis, the theory Liberal intergovernmentalism would be theorized to provide the analytical tools of the analysis. On the basis of this, four hypotheses will be made to provide the analytical tools of the analysis.

3.1. Liberal Intergovernmentalism

According to intergovernmentalism, European integration is a process shaped by the interest of the nation states, where autonomy, self-preservation both institutional and cultural, the influence of external actors are central factors of integration (Leuffen et al., 2013. p. 40). In addition, integration is limited towards "low politics" or the economic sphere, but supranational institutions or "high politics" remain weak, and the preservation of own governmental functions is imminent (Leuffen et al., 2013, p. 41).

During the 1990s Moravcsik put forward the theory of LI, which is considered the most up-to-date theory, of integration, and will therefore be the theory of choice for the thesis. LI considers European integration as a two-level game, the model explains integration through the liberal theory of national preferences and the strategic bargaining between states on an intergovernmental level (Rosamond, 2000, p. 136). When the states' interests are formulated, they are bargained in an intergovernmental manner, called "the supply side", and "the demand side", which consist of the benefits of cooperation and inter-state coordination of policies (Rosamond, 2000 p. 137). Moreover, Moravcsik argues that the state acts like a rational actor, shared with realist International Relation

theories, but differs due to the preferences that emerge from a domestic polity rooted within a vigorous political process (Rosamond, 2000, p. 137).

The interstate bargaining or “the supply side” could be seen through three assumptions; states join voluntarily, because historically, most decisions are reached through unanimity, and not through majority voting (Rosamond, 2000, p. 138). Secondly the interstate bargaining appears within an educational environment where the states know the technicalities of the policy making within the EU, and the limitations of different states (Rosamond, 2000, p.138). Thirdly, they are considered low-cost hence the long timeframe of the transactions, and the different possibilities of interdependence and possible sub-bargains derived (Rosamond, 2000, p.138). Moreover, within the economic perspective, the states cooperate and benefit primarily through a commercial interest, either through less regulations or access, depending on state size (Leuffen et al., 2013, p. 47). However, through non-economic issues or high politics, the preferences of states have a stronger role, and interest groups or lobbyists also play a major part (Leuffen et al., 2013, p. 47). Since EU integration has ventured ever deeper post 1990, this has made both losers and winners of integration. This has resulted in the increased perception of “cost and benefits” when these interstate bargaining occurs, and the domestic mobilization of interest groups and national preferences has grown ever as important (Leuffen et al., 2013, p. 48).

The interstate bargaining combined with the cost and benefit perspective could be considered as the most important aspects of LI regarding the topic of this thesis. Since the national preferences of Member States differ, the outcomes of these negotiations could materialize in high consequences for national governments and institutions, which brings the term *hard bargaining* (Leuffen et al., 2013, p. 49). Hard bargaining is described by Moravcsik as when states form alternate alliances where the outcome reflects the relative power of the states, in terms of asymmetrical interdependence (Moravcsik, 1998, p. 3-5). In addition, the demand for cooperation reflects upon the strength of the interdependence, and the different bargaining power also reflects upon the asymmetry within the negotiations (Leuffen et al., 2013, p. 52).

The thesis will emphasize on four hypotheses´ to provide an analytical tool to use in the empirical discussion, which depicts some of the key features of LI:

Hypothesis 1 – *Countries want to ensure autonomy, despite it potentially weakens security.*

Hypothesis 2 – *Countries will only participate if it provides any added value in terms of cooperation.*

Hypothesis 3 – *Hard bargaining forms coalitions where the asymmetrical powers make winners and losers within the cost benefit environment.*

Hypothesis 4 – *State preferences shape the outcome of intelligence sharing.*

4. Historical/Contextual

4.1. The EU´s counterterrorist policies

EU counterterrorism policy is an intricate system that deals with multiple actors, and the policies themselves touches upon several other EU policy areas. To easier understand how this works in practice, it is necessary to elaborate further on the historical context.

The policies surrounding counterterrorism is a policy area that has developed a lot since it was first brought up on the EU agenda. Hence, the ever-changing security policy sphere and the change from it being a domestic issue to a transboundary one has played its part to develop the policy area to how it is shaped today.

The first formal framework was not inaugurated within the Council until 1975 with the TREVI group (An acronym derived from "terrorism, radicalism, extremism et violence international"), which facilitated police cooperation at European level (Burchett & Weyembergh, 2022, p. 14). Prior to the implementation of this legal framework, the cooperation was rather informal, and outside any legal framework (Burchett & Weyembergh, 2022, p. 14). After the Maastricht treaty in 1992 the intergovernmental cooperation to combat crime and terrorism was implemented within the third pillar of the Treaty of the European Union (TEU) (Burchett & Weyembergh, 2022, p. 14).

Moreover, the 9/11 terrorist attacks had a major impact on the future development of security policies and enhanced cooperation within the EU, and it could be considered as one of the "black swans" in recent times. In addition, this changed the perception of terrorism, from being a domestic matter led by nationalist separatist to a transboundary issue (Bures, 2012, p. 505). There was an enhanced focus on Islamic threats, and implementation of broader policies to widen the scope of what is considered terrorist offences thus giving the Justice and Home Affairs (JHA) better instruments to prosecute the individuals involved (Burchett & Weyembergh, 2022, p. 15). In the aftermath of the 9/11 attacks, the first multi-dimensional action plan was created within the JHA, where bilateral cooperation was facilitated for transnational cooperation between public governing bodies (Argomaniz, 2009, p. 154). Prior to this, terrorism had not been an issue of priority as only 6 of 15 Member States had implemented anti-terrorist legislation, and, the EU itself became the first international actor to define and set criteria for what is considered as terrorism (Argomaniz, 2009, p. 155).

In the aftermath of the 2004 Madrid and 2005 London attack, once again led to further cooperation and new policies for further prevention. The measures implemented consisted of the creation of the EU counter-terrorist coordinator, subject to the Council's Secretary General, where preparing and monitoring the implementation of the EU anti-terrorist strategy was the main objective (Burchett & Weyembergh, 2022, p. 16). In addition, it led to the four-pillar strategy of the EU: Prevent, Protect, Pursue and Respond. Prevention consisted of dealing with terrorism by its roots, prevent radicalization and recruitment, protect consisted of improve the security of borders, transport and critical infrastructure (Council of the EU, 2005, p. 3). Pursue targeted the funding, disruption of networks, access to attack material and bring terrorists to justice, lastly Respond consisted of managing and minimize the consequences, and coordination of a response towards both the victims and the terrorist (Council of the EU, 2005, p. 3).

During 2015-16, the term foreign terrorist fighters changed the narrative again, thus resulting in strengthening the institutional bodies of Eurojust, Europol, and Frontex, to cope with the new threat of lone actors, and victims of radicalization (Burchett & Weyembergh, 2022, p. 17). The change from organizations to lone actors carrying out the attacks increased the demand for information-sharing between states, but the separation between law enforcement and intelligence agencies has illustrated some of the challenges within EU's counter terrorist strategy (Burchett & Weyembergh, 2022, p. 18).

4.2. Actor 's involved

4.2.1. EUROPOL

Operating as the EU 's own law enforcement agency and, working as an information hub for national agencies, Europol is an intergovernmental coordinator (Europol, 2022). It provides competence within internal security of the EU within the fields of terrorism, drug trafficking, money laundering, fraud, counterfeit Euros, and human trafficking (Europol, 2022). Europol also provides the EU Situation and Trend Report (TE-SAT) with its own counter terrorism center, European Counter Terrorism Center (ECTC), consisting of a detailed state of terrorism in the EU.

4.2.2. ECTC

In the aftermath of the 2015 attacks on Charlie Hebdo in France, EUROPOL created a task force to combat and build expertise on the issue of terrorism, the ECTC (Europol, 2022). ECTC provides a broader specialization and a much-needed competence regarding terrorism, previously more domestic issue. Moreover, the ECTC should help to provide better coordination, support, information sharing, cooperation as well as central strategic support capability (Europol, 2022).

4.2.3. EU IntCen (Intelligence and analysis center)

EU IntCen consists of a civilian analysis team which provides early warning and situation reports to the High Representative for the Foreign Affairs and Security Policy, through monitoring and assessing the international stage and monitoring sensitive groups and areas (EU IntCen, 2015). However, while it does not have any capabilities in terms of collecting data, the EU IntCen does operationalize intelligence provided by the different Member States (EU IntCen, 2015).

4.3. Intelligence

Intelligence itself is, in general considered as collected information that could assist a decision maker 's knowledge to decision-make, it could change either the tactical, operational, or strategic approach (Müller-Wille, 2008, p. 52). Also, within the intelligence sphere there are different types of intelligence that touches upon different actors. In addition, the information could be either issue-specific information or information involving different actors thus resulting in the need for cooperation between different agencies (Müller-Wille, 2008, p. 53).

Throughout Europe, there are various bodies that collect and process the information, for instance, in Germany the police and intelligence agencies are strictly separated, but in Sweden they are brought together (Müller-Wille, 2008, p. 52). Thus, resulting in varying foundation for cooperation in the EU and variations between the actors involved resulting in the lack of a uniform approach.

5. Empirical analysis

The entire structure of the EU counterterrorist policy is considerably intricate, involving quite a few actors. Despite all the efforts by the EU to further integrate and be an international actor, states are more or less handling this as a domestic issue and does not consider this as transboundary as the EU does. Regarding intelligence, it would be a natural assumption for there to be a strong aspiration to help fellow EU Member States by not holding back any information that could be valuable to prevent potential attacks.

Moreover, this draws forward the ethical dilemma of why the Member States still value their citizens privacy over potential security. With the implementation of the Schengen agreement this also resulted in an increased terrorist friendly environment, with the abolishment of internal borders, thus resulting in an inevitable need for deeper cooperation in information sharing for prevention and protection. You could wonder why there hasn't been made an established an agency with the same institutional power as the Central Intelligence Agency (CIA) and Federal Bureau of Investigation (FBI) within the EU.

5.1. Historical intelligence sharing

The degree of intelligence sharing before the 9/11 attacks was primarily outside the EU bodies, not rooted within any structural framework and without any significance. To exemplify, intelligence sharing occurred within informal groups, such as the Club of Berne (Bures, 2012, p. 497). Such conditions for intelligence sharing gave participating members a suitable environment and the possibility to choose what information would be shared bilaterally. There were no strings attached, and they retained their autonomy. The EU Member States favored informal groups such as the Club of Berne, outside the formal EU framework when it concerned counterterrorism (Bures, 2012, p. 496). As H1 and H2 predicts, such informal groups give the member states control over the supply and demand side of intelligence exchange whereas the parts they participate adds a value and preserve autonomy. However, inside the formal framework of the EU, the intelligence sharing was primarily done through military agencies, the EU Military Staff, and some other agencies also started to cooperate with the Joint Situation Center (Formerly known as SitCen, currently known as IntCen), but the issue of terrorism was not of any significance (Fägersten, 2010, p. 505). However, in the aftermath of the 9/11 attacks, the Europol director Jürgen Storbeck urged the Member States to provide intelligence so that Europol could be better equipped to prevent any attack on European soil (Fägersten, 2010, p. 505). There was an increased desire to enhance cooperation and information sharing unilaterally, something that was a major breach compared to what previously was the norm. As the 9/11 attacks were an earthquake that drastically changed the perception of terrorism and brought a whole new perspective on how sudden and fatal international terrorism had become.

5.2. State and organization

In a historical context, the intelligence cooperation within the EU has been scarce, despite reactive efforts made in the aftermath of various attacks to enhance the cooperation. Björn Fägersten, 2010, explains this through a bureaucracy perspective as an explanatory factor when discussing the issue. The barriers to enhance cooperation are several, as H4 suggests, state preferences are still one of the major constraints to further integrate the policy area, as the exchange of such information could be risky, costly, and dangerous (Fägersten, 2010, p. 502). Even when national governments may be in favor of more cooperation, there could still be reluctance within the different intelligence bodies, which could limit the outcomes of different efforts to increase information sharing (Fägersten, 2010, p. 502). Within the different bodies that provide intelligence, the question regarding autonomy and self-interest greatly shapes the outcome of cooperation. As Fägersten states, the bureaucratic actors itself pursue rational goals, whether these are budgetary, personal, or to increase their decision-making powers

(Fägersten, 2010, p. 502). Thus, resulting in a hard bargaining environment within the domestic sphere. Simultaneously as the intergovernmental setting constrains the cooperation on different divisions, making this a multi-level issue. Resulting in a challenging environment for the EU to facilitate from the policies implemented when they aren't necessarily executed preferably.

While the important role of the actors providing intelligence in terms of competence, its cooperative relationship-building role is ever as important (Fägersten, 2010, p. 503). Since, these relations are built upon mutual trust, they are crucial to maintain. This could make it challenging to impose new directions on information-sharing, since they are hard to maintain (Fägersten, 2010, p. 503). This creates an asymmetrical interdependence between intelligence agencies and national government, as H3 suggest, but on a domestic rather than intergovernmental level. Where the cost of change in a personal or institutional manner would be greater than the benefit of retaining those already engaged. In addition, when intelligence itself is a sensitive and often classified, this itself could be argued to be a barrier when foreign cooperation is initiated (Fägersten, 2010, p. 504). Still the cost of sharing various information could be greater than the benefit of obtaining information by other agencies via Europol.

There is a considerable gap between national authorities' eagerness to cooperate and the actual outcome of information sharing from intelligence agencies to Europol (Fägersten, 2010, p. 502). Whether this could be rooted within the EU, where Europol and IntCen themselves struggle to provide each other with sufficient information (Fägersten, 2010, p. 515), it could be argued that it is too ambitious to expect national agencies to provide enough intelligence. Where the gap between intention and what is achievable when the issue is considered domestic, when there is little institutional framework to be obligated by. Likewise, when national agencies could consider their self-produced intelligence to be sufficient, the obligation to share isn't resilient, and this reflects upon the cooperation outcome, as H2 suggest, there must be an added value. The government's ambition of enhanced cooperation is not equivalent within the bureaucratic institutions, and the preferences of the agencies plays a major part in the outcome (Fägersten, 2010, p. 519). In addition, while state autonomy is the main argument against deeper integration within the policy area of CSDP, it does not favor cooperation outside the constitutional framework, as H1 predicts. It could be argued that states that do not obtain highly exposed areas, do not feel obligated to share information that does not concern them in the same way as other Member States might. This leads to an asymmetrical interdependence in the sense of different perceptions of what could be valuable intelligence for one state, isn't necessarily for another. Thus, resulting in a challenging environment for information flow to Europol and IntCen, despite the EU's efforts to facilitate information flow and prevent potential attacks. Also, in terms of the asymmetry emerged, the power imbalance between the Member States was an important factor in how the IntCen was shaped, thus illustrating a hierarchy within the EU itself (Fägersten, 2016, p. 2). As H3 predicts, the resources, whether they are economic or in relation to capabilities, shapes the outcome on the of the institution. It may be more beneficial for smaller states to participate than the more powerful, as a result, the more powerful states were given the benefit of shaping the cooperation within their preferences whether this was formal or informal (Fägersten, 2016, p. 2).

5.3. Europol

A question that often emerges when intelligence sharing is drawn forward is what the actual contribution of Europol is, and what beneficial role does the EU provide that the

national authorities doesn't? Hence one of the arguments to further integrate intelligence is that it should improve and benefit the Member States. As H2 suggest, the Member States will only support joint intelligence sharing if this furthers their interests and benefits national security. However, even when the EU encourages information sharing, and wants to expand Europol's role within counterterrorism and intelligence, the Member States are still hesitant to share any information of high value (Bures, 2011, p. 93). Even though Member States want to share information, they could still be limited by national restrictions and strict data protection regimes, thus giving Europol limited tools to analyze data (Bures, 2011, p. 94). Whether this issue regarding strict national data protection laws is rooted within sovereignty and national security could be argued through H1. Even though cooperation is a rational choice when discussing objectives concerning counterterrorism, it draws forward the paradox called the zero-sum logic (Fägersten, 2016, p. 2). The intelligence obtained could be more valuable when only obtained by one country rather than several, and the benefits could be of economic or security related reasons (Fägersten, 2016, p. 2).

Derived as the main obstacle for Europol are the strong historical roots within autonomy and the limited latitude within the policies (Bures, 2011, p. 93). In the aftermath of the attacks, there have been efforts to make intelligence sharing compulsory, and to further bolster Europol's role (Bures, 2011, p. 94). However, this doesn't change the limits already existing, within the TEU Article 4(2) that states that "*National security remains the sole responsibility of each Member State*" (Official Journal of the European Union, 2016), which makes the incentives to obligate member states practically impossible. Moreover, it could be argued that other international actors also limit Europol's role, since they inhabit extensive polices that incorporates foreign intelligence, rather than domestic that concerns the EU to a higher extent. This results in a Europol failing to provide any additional value, which is one of the basic foundations to enhance cooperation within the EU (Bures, 2011, p. 102). This makes Europol's role duplicate, and power asymmetries emerges, whereas some Member States are not dependent on EU intelligence (Bures, 2011, p. 102; Fägersten, 2016, p. 2). Combined, these make the preconditions for Europol challenging, as the conditions are compatible with H1, H2 and H3. However, it must be added that Europol does provide the TE-SAT, which gives a strategic basis for the EU, and set the foundations for decision-making. Moreover, the TE-SAT provides insights within the gaps of the policies existing, which should be of national interest to fill in, to provide greater security (Bures, 2011, p. 104). This could make the argument regarding H3 much weaker, as it gives Europol a coordinating role in terms of laying the foundations and to pull the Member States in the same direction.

5.4. Limits and possibilities

When discussing the possibility of a supranational intelligence-hub, both as a collector and coordinator like the CIA and FBI, means there will be winners and losers in terms of giving away sovereignty. In addition, there is the possibility of obtaining "noise" within the already collected information provided by the national agencies. When there is established an independent unilateral hub, the information does not flow bilaterally as previous. This could affect the quality of the collected information and could make the assessment harder (Müller-Wille, 2008, p. 66).

In addition, the willingness of the countries to help each other and provide the necessary information is not to main issue, and this draws upon the subsidiarity principle (Müller-

Wille, 2008, p. 66). The establishment of a European CIA could also function as a speed bump, whereas some of the information obtained by the different Member States could be of an urgent character. Therefore, going through a third part could be of a redundant character. However, it could have practical benefits, in terms of linking different actors together, and speed up other aspects of information sharing (Müller-Wille, 2008, p. 67). This draws upon the asymmetrical interdependence and H3 as some the Members States will benefit of creating an interstate hub, whereas others might not. This could be because they provide enough valuable intelligence themselves, or because the information could harm an ongoing investigation. However, the EU cannot force any of the Member States to provide intelligence, and information can be withheld for different reasons (Müller-Wille, 2008, p. 67). As Bures argues, the formal framework of the EU does not necessarily mean that it is better than the informal cooperation, since there are shortcomings within the input legitimacy and the effectiveness of the outcome (Bures, 2012, p. 496). This could also be argued on the basis that a source is vulnerable, and no intelligence service wants to risk compromising it. This could be further highlighted through a rule called the "control principle", meaning whoever obtains the intelligence has the right to control its use (Sawers, 2010). The control principle once again highlights self-interest and autonomy as H1 and H4 predicts, when the state could lose security by sharing intelligence, there is asymmetry within the cost and benefit dilemma. Moreover, it is within the interest of countries having limited intelligence capabilities to support a European model similar to the American, with the CIA or FBI (Fägersten, 2016, p. 3). However, the preconditions for such a model, could be considered as unlikely, hence the strong position of self-interest, preferences as H4 predicts, resulting in the reluctance for an even more centralized intelligence hub by states that inhabit strong and established intelligence capabilities (Fägersten, 2016, p. 3). However, EU's assessments do state that it would be beneficial for Member States to provide more intelligence through IntCen, to provide better risk assessments and using the EU as a counterterrorism coordinator would be in the interests of Member States interest (European Commission, 2017, p. 13). As with Europol, H2, provides an explanation on increased participation if EU's role as a coordinator provides an added value.

In relation to the framework that facilitates intelligence sharing, there are many constraints in terms of what is considered "obligatory" to share. As the European Union Agency of Human Rights (FRA) states: "The legal frameworks of all EU Member States allow restrictions on the obligation to information and the right to access on the basis of a threat to national security and/or the intelligence services' objectives." (FRA, 2021b, p. 62). This means that Member States could for different reasons avoid sharing intelligence even though this could benefit other states which in turn emphasizes differentiation. In addition, some Member States have strict national laws in relating to privacy and data protection. To exemplify, the report *On the democratic oversight of signals intelligence agencies* found different implications in relation to strategic surveillance by intelligence agencies in conjunction with crime and terrorism. Firstly, to be allowed to initiate surveillance, there must be "concrete facts indicating the criminal offence/security-threatening conduct" (Venice Commission, 2015, p. 9). Or else it interferes with the Article 8 (2) of the European Convention on Human Rights (ECHR), which states: "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security [...]" (ECHR, 2013, p. 11). Thus, illustrating the ethical challenges that agencies face when collecting data. Because of the secrecy associated with the works, limits the rights that ECHR states (FRA, 2021b, p. 75). Nevertheless, even though

the EU operates with the obligation to inform and right to access agenda, there is differentiation within intelligence cooperation. Moreover, there are 8 Member States this agenda isn't provided for, and the other 20, the legislation provides the obligation, but with different constraints (FRA, 2021b, p. 75). Hence national restrictions are based on national interests which poses a challenge for the EU, as the differentiation makes coordination demanding. In relation to the analytical tools provided, H1 and H4 provide explanatory power in terms of restraints rooted in national law and differentiation. Every country has the right of access, but it is not obligatory to share when it violates national law concerning data protection. Thus, depicting the position of autonomy and state preferences in relation to security concerns.

Also, within prosecution of suspects of terrorism, the national differentiation within data protection laws derives. Firstly, countries less integrated could selectively share information with courts, thus resulting in challenges for both prosecutor and prosecuted (FRA, 2021a, p. 40). Hence the information could be gathered both formally and informally, therefore information could be presented as evidence even though there could be implications to where, how, and when it was gathered (FRA, 2021a, p. 40). As a respondent answers within FRA's report:

[I]n the last years there have been testimonies of police officers presenting intelligence findings as evidence, which is accepted as an expert testimony. The problem is that there is often no information on where the information comes from and how it has been gathered. There are many things that are just "done". (FRA, 2021a, p. 40).

This demonstrates the multi-level challenges regarding information sharing and cooperation within the EU. Albeit, as H4 provides an explanatory factor, when state preferences are strong, the cooperation is shaped by it. Also, H1, provides a satisfactory explanation regarding the preservation of autonomy, even if this weakens both security and rule of law.

Hence Member States urge of broadening their intelligence oversight internationally outside of the EU, diverges another implication due to EU's limited capabilities. H4 argues that the states do have different preferences depending on their domestic policy, and that some Member States have a greater influence on the international stage and do possess different historical roots to different parts of the world. This, results in the desire of some countries to have close transnational cooperation with countries outside the EU, which do not have the same laws on data protection and privacy (Den Boer, 2015, p. 415). This creates implications whereas some countries might want to share sensitive data that others do not, which again would be problematic to countries which that place privacy over security. Relating to this, cooperation with the United States of America (US) has been an ever-important aspect when discussing counterterrorism. Transatlantic cooperation has been a present and essential part of intelligence exchange within high-risk areas as the Middle East. However, this touches upon the foreign policy area of intelligence cooperation. An area which the EU inhabit limited capabilities and depend on intelligence provided by Member States. Den Boer argues that the intelligence exchange between the US and EU, accommodates challenges in terms of information just going from Europe to the US, rather than the other way (Den Boer, 2015, p. 417). This suggests that Transatlantic cooperation is asymmetrical as well, and that H3 is relevant when discussing the issue outside the EU. Den Boer further argues that the reason for this asymmetric information flow is rooted within a gap between intelligence cultures, thus making enhanced transatlantic cooperation an important aspect of the counterterrorist strategy (Den Boer, 2015, p. 417).

6. Discussion

Clearly within the information exchange of counterterrorism there is considerable challenges in obtaining a sufficient amount of information to proceed within the EU's Counter Terrorist Strategy (CTS). However, asymmetrical power in relation to the Member States is arguably one of the most challenging aspects of intelligence cooperation. Furthermore, the reopening of Europe in a post-COVID era might increase the hazard related to terrorist attacks, making information sharing and cooperation ever so important in protecting and preventing aligned with the CTS.

The entire structure of the policies within counterterrorism could be argued to be reactive in terms of how it has developed and continues to develop related to how international terror evolves and gives new aspects of security concerns for the EU as seen in the historical chapter. As mentioned, an intergovernmental perspective on the intelligence cooperation gives a satisfactory explanatory power. However, it provides useful insight in the asymmetrical power relations both within the EU as well as towards the EU. H3 gives further insight within this aspect as it provides an explanatory factor in terms of how the policies have developed, and the states carrying the most power, resources, and capacity. It also provides an explanation for EU's less prominent role as an international actor, especially vis-à-vis the US.

The question regarding autonomy or H1 gives an insight towards the challenging environment for enhancing cooperation as the policy area of intelligence is subject to the CSDP, which clearly states that security is to be considered a domestic issue. When intelligence itself is considered sensitive, the dilemma regarding security and data protection emerges, which gives H1 another dimension to when states withholding information this could improve security. This could be seen through Müller-Wille's argument regarding obtaining data noise in an ongoing operation or investigation, which could damage the information. However, in relation to H2, this is contradictory regarding the benefits of participating within EU intelligence sharing. Firstly, it could be argued that linking upon a third part as a unilateral intelligence analyst could increase the possibility for data noise and putting an investigation in danger. However, it does provide the EU potential information of value, which would provide added value at a later stage. Either in providing Europol and IntCen real time insight on the current threats in real time, which could lead to better and more detailed TE-SAT which in turn would help with policy making and provide better conditions for potential operation. Also, it could be argued that EU security is within the interest of every Member State, and thus ensuing in an added value regardless, weakening the argument of H2.

Whether state preferences shape the outcome as H4 predicts, the empirical evidence gives an insight that this hypothesis is one of the weaker in relation to the bureaucratic interest. Hence, the strong position the intelligence agencies, results in national interests does not necessarily correspond with the bureaucratic. Which draws upon the cost benefit hypothesis (H3), where a new, enhanced cooperation strategy would not necessarily be in bureaucratic interest. Where the national preferences might have a higher cost in relation to the benefit it gives to participate within the intelligence cooperation. Moreover, it could be argued that LI does not provide the best explanation for variation within bureaucratic and national interests. Also, the hypotheses inhabit little explanatory power, and could be somewhat contradictory in that context. In addition, its plausible that the theory of constructivism or bureaucratic management theories could provide better explanatory power of the reluctance and organizational cultures within already established agencies and institutions.

Despite how intricate, and asymmetrical powers, this does not mean that EU as an intelligence actor is obsolete, but it provides another dimension in relation to how intelligence is shared. Even when H4 provides a strong explanatory factor, it could be argued that through the role of as an intelligence coordinator, the national preferences would help the EU in gaining a more prominent role. In addition, this could lead towards a less asymmetrical distribution of power. With capacity building and fostering "soft infrastructure" having the possibility to bolster the beneficial role of IntCen and Europol (Fägersten, 2016, p. 4), and would provide an increased value of cooperation and changing the perception of H2. However, there is no doubt there is a demand for intelligence cooperation and coordination, and with increased funding and capacity, Member States will rely more on EU thus leading towards more cooperation.

Also, with the strong position of H1 and H4 in terms of national laws, these constrain the information exchange. The countries are obliged to provide information and have rights to access data, but it allows differentiation in terms of national laws, which leads to asymmetries and draws forward H3, making a cost-benefit environment. Moreover, the analysis depicts multi-level challenges in terms of both rule of law and security, where one of the explanatory factors are rooted within H1. The statements both by the Venice Commission, ECHR and FRA depicts all the challenges within intelligence cooperation in the EU, and then draws forward H2. Whether it is an added value or just an intricate way of multilateral cooperation.

Considering the rapid developments within intelligence cooperation the last 15 years, the future developments would be engaging considering the strong position of H1 and H4, and the strong domestic preferences within this policy area. The possibility of developing an European CIA would depend on the added value to the Member States (H2), but to achieve such a model this would revolve around the willingness to give away autonomy. Thus, making this challenging, but the integration has become ever deeper throughout the past 50 years. Nevertheless, it would be a bumpy path to achieve. However, by the reactive nature it would be intuitive to argue that a devastating incident could become a turning point in terms of the possibility of achieving this. Nevertheless, based on its findings, the thesis would argue that the best option is for the Member States and the EU to work proactively, and be on the front-foot to ensure, protect and prevent terrorist attacks. As of now, it seems like national preferences are not in support of a European CIA in the nearest future. However, it could be argued that H1 and H4 are the strongest in relation to the empirical evidence obtained, and preferences and autonomy shape the intelligence cooperation.

7. Conclusion

The intention of the thesis was to answer the research question of how LI could explain the intelligence cooperation within the EU, with an emphasis on counterterrorism, and what the limits of the EU's capabilities are in this policy area? To be able to answer this question the thesis has elaborated on the developments of EU counterterrorist policies and contextualized the relevant actors and terms. Thereafter it provided its methodological approach as well as the theory of choice. Four different hypotheses were made, rooted within LI, to provide better analytical tools for the analysis and discussion.

The empirical section provided information on how the intelligence cooperation has developed, thus showing the strong historical position of national interest and autonomy

as suggested by H1 and H4. Where LI provides explanatory power. Regarding state and organization, it is argued that all hypotheses provide explanatory power in terms of asymmetric interdependence, different capabilities, the perforation of informal bilateral cooperation and that state preferences varies domestically. However, regarding bureaucratic resistance, it is suggested that LI does not provide the best explanation.

In relation to Europol's role within intelligence, this could be argued to be challenging. Hence the sensitivity of intelligence, and even though the efforts to bolster their role has been constrained by autonomy, national laws and treaties. H1, H2 and H3 was drawn forward as explanations for their challenging role as a coordinator, and the issue regarding H3 was since the TE-SAT provided added value in terms of decision-making and counterterrorist course of Member States.

Additionally, it was argued that intelligence was a challenging area in terms of laws on data protection and privacy, and that the information exchange had flaws in terms of cost-benefit questions regarding the sharing of information. It is also argued that H1, H3 and H4 explains some of the constraints regarding the limitations the intelligence sharing faces. In addition, national laws and domestic policy does provide explanation as LI predicts.

Concludingly, there is no doubt that intelligence cooperation is a policy area with many limitations in terms of national laws, treaties, preferences, autonomy, and historical roots. LI provides an explanation on why the intelligence cooperation has become as it is, and the strong position of domestic interests. However, it has developed and become more integrated over time, and even though there are challenges, there are possibilities for further developments. Since it is a rather new area of research the empirical data are rather limited than within other policy areas. The future of intelligence cooperation will likely become even more important, and the developments could happen quickly if the demand for integration increases.

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