

# 'Trans-national responses to reducing high risk violent and sexual crime'

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With the financial support of the Prevention of and Fight against Crime Programme  
European Commission – Directorate-General Home Affairs





Serious offending by Mobile European Criminals  
Improving information exchange and cross-border supervision

A 2 year project running from January 2013 to January 2015

[http://www.cep-probation.org/default.asp?page\\_id=563](http://www.cep-probation.org/default.asp?page_id=563)

Investigating current processes for information exchange and procedures to manage the harm posed by serious violent or sexual offenders travelling across the European Union.

Co-funded by the European Commission Directorate-General for Home Affairs - HOME/2011/AG/4000002521 30-CE-0519712/00-87.

# Aims of presentation

- A brief discussion of the project context and field work methodology.
- An overview of the key findings and their implications.
- A specific focus on the varied EU wide practices relating to information exchange and cross border management of serious violent or sexual offenders

# Background

- The number of UK nationals travelling overseas was 30 million in 1987 by 2007 this was 70 million
- In 2012 43.5 million UK nationals had travelled to other parts of Europe
- In 2011 1.3 million people previously residing inside one of the Member States emigrated to another Member State.
- Approx 12.8 million EU citizens reside in another EU Member State (mostly for employment)
- Free movement of 'crime', trans-national nature is growing
- Including serious violent or sexual crime (Nagy 2011).

(Hilder, S and Kemshall, H; 2014)



# Context

Significant strides have been made in EU community law enforcement cooperation to address issues of organised crime, human trafficking, child exploitation, terrorism and football hooliganism,

The “common interest” of protecting EU citizens from the single transient high risk violent or sexual offender has not been so apparent.

Whilst the frequency of such cases should not be over stated, the impact when they occur is immense and far reaching



# Doing what is allowed and necessary

The identification, tracking, monitoring and information exchange about serious violent or sexual offenders moving across the EU are important crime prevention and public protection measures.

It is vital that they are done when required, justified and legitimate, and that they are pursued to the full extent permissible and expected under established EU arrangements.

## The exchange of criminality information on serious violent or sexual offenders travelling across EU borders

- A permissive framework for proactive exchange already exists. Swedish Framework Decision FD 2006/960 JHA
- A number of mechanisms to facilitate cross border exchanges are already in place via Interpol, Europol, Schengen SIS II, ECRIS, Embassy personnel.
- They work most effectively when coordinated via a Single Point of Contact (SPOC)
- They are mainly utilised by LE personnel.
- They are rarely used proactively in relation to sexual or violent offenders

# Core areas of Investigation

- Definitions of serious violent or sexual offenders (Selected ECRIS codes)
- The identification and assessment of serious violent or sexual offenders
- The exchange of criminality information on serious violent or sexual offenders travelling across EU borders
- The management, monitoring and information exchange on serious violent or sexual offenders
- Responding to information received on serious violent or sexual offenders travelling across EU borders



# Data Collection

- 37 structured interviews with Law Enforcement (LE) personnel from 23 Member States.
- 28 structured interviews with Offender Management (OM), Probation personnel from 20 Member States.
- Structured interviews with experts on EU wide information exchange systems such as ECRIS, EUROPOL, Schengen SIS II; law enforcement officers in SIRENE Bureaux; Embassy Liaison Officers; specialist law enforcement officers on combating serious sexual and violent offending.
- Case study collation to illustrate current practice.
- Task Groups hosted by three SOMEK partner countries in the UK, Latvia and the Netherlands attended by 37 LE and OM participants from 17 different Member States.

# Identification and Assessment

- 5 Member States identified serious violent or sexual offenders as a specific category.
- The stages and processes for identification are variable.
- Formal assessment tools are rarely used.
- There is a lack of information exchange between the judiciary, LE and OM/probation personnel at a national level.
- Previous convictions occurring in other Member States are rarely taken into account in judicial and assessment processes, despite FD 2008/675/JHA.

# Management, Monitoring and Information Exchange across borders

- Some form of monitoring for serious violent or sexual offenders does exist in most Member States. However there are significant differences.
- There is support for more formal frameworks for cross border co-operation on monitoring and information exchange.
- FD 2008/947/JHA is currently under-used in relation to the transfer of Probation supervision, but has some potential use for SOMEK offenders.
- There are good practice examples on transfer and information exchange that could be replicated.

# Responding and using information received

- The quality and timeliness of the information received impacts upon the ability of a Member State to respond.
- Responses are limited by National legal frameworks.
- Where the information is of a good standard- “no action” is less justifiable.
- Managing and communicating information on the ongoing movement of an offender is vital.

# Facilitating cross border supervision and management

- You have to know them in order to supervise them!
- Transfer appropriately, send full information to enable effective case management
- To gain access to appropriate services, support and resources
- To reduce reoffending and mitigate risk

# Examples of cross border management

- Regular information exchange between SPOCs
- Shared risk assessment tools and shared training
- Early identification and response on arrival ('airport greeting') and early contact
- Planned moves, resettlement and employment
- 'Safety houses'

# Key Challenges

- There is a lack of confidence/clarity/awareness of the overarching EU framework which enables this (such as Swedish Framework Decision 2006/960 JHA).
- Clear identification, assessment of the serious violent or sexual offender is needed and appropriate targeting of the communication required
- Differences in the use and availability of conditional release is problematic.
- Offenders at the end of a formal sanction/sentence pose particular challenges
- Evidence of mobility can be difficult (guidance provided).

# Balancing Risk, Rights, Prevention and Privacy

- Concepts of privacy are embedded within varied historical contexts across the EU
- Actions which some participants viewed as preventative public protection measures, were viewed by others as a potential violation of privacy and basic human rights.
- It can result in partial, incomplete exchanges or a refusal/inability to engage/communicate.



# Governance and accountability

- The appropriate governance of such exchanges is vital to ensure that civil liberties, data protection and privacy rights are observed.
- To ensure consistency, defensibility and quality in the development of information exchange practice both within and across EU Member States regular monitoring, and ongoing review is required.
- Governance rules should adhere to the principles of proportionality, accountability, transparency, with the rights of individuals central to judicial decision-making across the EU community.

# Key changes required

- Member States to fully use the permissive EU legal framework for information exchange
- Risk management and re-integration/ rehabilitation are not mutually exclusive goals
- More effective joint work at national level to identify serious v and s offenders
- Co-ordinated approaches to incoming information and use of SPOCs
- Use of ECRIS
- Regularise post custody release, particularly information exchange
- Transfer supervision appropriately

# Agreements to share information across borders

- Give permission to operational personnel to exchange information within well-defined parameters.
- Limit the use of information exchange and the use of information obtained.
- Define the limits and boundaries of confidentiality.
- Define clearly the subjects of such information exchange.
- Define the purposes of information exchange.
- Outline the processes, mechanisms, systems and personnel for information exchange.
- Clarify the status of the agreement, and relationship to other legal instruments and legal acts.
- Provide a system and timeline to review the agreement.
- Set information exchange in a broader context of reintegration as well as risk management- ie facilitating travel to secure employment, maintain and sustain family relationships

Where assessments of risk are systematic, comprehensive and defensible, and the risk of harm to others is clear a disclosure can be made. The rights of all EU citizens to life and to remain free from torture, inhumane and degrading treatment are of paramount concern within every Member State and these rights need to be protected.

One person's right to freedom of movement should not become another person's risk.

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Hilder and Kemshall: Hilton, Liverpool,  
November 19th 2015

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