

유럽의 국가간 경찰협력기구의 범죄정보시스템에 관한 연구

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Study on the Criminal Information System of Police Cooperation Organization between European Nations

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요 약

본 논문은 유럽의 국가간 경찰협력기구의 범죄정보시스템에 대하여 연구하였다. 유럽의 국가간 경찰협력기구는 냉전 시대 유럽 전역에서 빈번하게 발생하던 국제테러와 국제조직범죄, 마약범죄, 불법이민 및 기타 중대한 범죄에 대해 지역 내 국가들의 공동대응 목적으로, 1995년 7월 26일 유로폴 협약의 서명과 1998년 10월 1일 동 조약의 발효로 탄생된 조직이다. 동 조직은 탄생 초기부터 과거 국제형사경찰기구(Interpol)의 업무적 한계를 극복하고자 범죄정보시스템을 구축하였는데, 이는 정보시스템과 업무파일, 색인시스템으로 구성되어, 각국의 National Unit 또는 다른 법집행기관 간의 직접적이고도 신속한 처리를 통해서 정보의 수집, 교환 및 활용을 용이하게 할 수 있게 하고 있다. 또한 최근에는 CMS와의 통합, 사이버범죄 대응체계의 구축, 생체인식데이터베이스의 도입 등 급변하는 시대에 발맞춘 변화도 추구하고 있다. 이처럼 유로폴의 범죄정보시스템은 현재 유럽지역에서 국제범죄의 예방과 진압에 효과적으로 사용되고 있음은 물론, 정보화 시대에 발맞춘 국가간 경찰협력시스템에의 중요한 함의가 되고 있다.

Abstract

This study is about the criminal information system of police cooperation organization between European nations. The criminal information system of police cooperation organization between European nations is the organization created by the sign of the Europol convention in 26 July 1995 and the effectuation in 1 October 1998 for European nations' cooperative confrontation with frequent international terror, international organization crime, drug trafficking, illegal immigrant smuggling, and other critical crimes. From the beginning, this organization established the criminal information system for overcoming the working limits of previous international police organization. This system consists of information system, work file, and index system and enables every national unit or other law enforcement agents to collect, exchange, and utilize the information. Additionally, it try to keep in step with the rapidly change time, such as the integration with CMS, the establishment of correspondence system against cyber crime, and the introduction of biometric database. The criminal information system of the Europol gives important suggestions to the police cooperation organization between nations, besides prevention and suppression against the international crimes in Europe.

▶ Keyword : 범죄정보시스템(The Criminal Information System), 국제형사경찰기구(International Police Organization), 유로폴(Europol), 업무파일(Work File), 색인시스템(Index System)

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I. Introduction

In the post-Cold War era after World War II, Europe needs the entire international cooperative confrontation because of the international crimes, especially in the Middle East and Western Europe. It is thought most reasonable for Interpol to control the international terror as the international police cooperation spreads in the middle of Interpol those days, so European Community(EC) introduced to Interpol general meeting the bill including the international terror into Interpol's jurisdictional crime in the early 1970s. But Nepote, the secretary general of Interpol refused it.[1] The reason is as follows. First, the international terror has political and racial characteristic. Second, Interpol opposes the intervention into the political dispute. Third, in article 3 of Interpol's charter, there are the regulations strictly prohibiting any interferences or activities about political, religious, military, racial problems.[2] So in December 1975, the ministers in charge of Justice and Home Affairs of EC agreed to establish Trevi Group for cooperatively confronting the international terror in Rome, and held the first meeting in Luxembourg in June 1976. The early Trevi Group discussed the problems on the only international terror, but gradually spread the range of jurisdiction to the international organizational crime, drug and other critical trafficking, illegal immigrant smuggling, stadium violence, public order, police equipment, training, and legal medicine.[3] and it led to establishment of police cooperation organization between European nations. From the beginning of establishment, this organization developed the information system that effectively shared the crime information of nations in the region. This is the criminal information system effectively utilized in the correspondence to the international crime in Europe today.

II. Police cooperation between European nations

2.1. Establishment Background

The official argument for police cooperation between European nations began by that Kohl, the representative of Germany, raised the establishment of European Criminal Investigation Office in Luxemburg in 28-29 June 1991.[4] It decided to rename drugs information organization installed in June 1990 to Europol Drugs Unit(EDU) in Trevi Group ministerial-level meeting in 4 December 1991, and to install Europol as the police cooperation-related organization, including police cooperation as the sixth justice and Home affairs of Treaty on European Union in the prime ministerial-level meeting of European Council in 9-10 December 1991.

The official activities named as Europol started in 1 July 1999 after the Europol convention was signed in 26 July 1995 and that convention came into effect in 1 October 1998. Before the effectuation of that convention, EDU was supposed to be installed on the basis of Ministerial Agreement on the Establishment of the Europol Drugs Unit by Trevi Group ministerial-level meeting in Copenhagen, Denmark in 1-2 June 1993. That agreement was supposed to come into effect in case that the permanent office of EDU was decided. So Hague was decided as the permanent office of EDU in 29 October 1993 by EU, and EDU has acted on the basis of that Minister Convention in 2 June 1993 since 3 January 1994. As Treaty on the European Union was activated in 1 November 1993, Trevi Group was replaced with the council on the justice and home affairs of EU, and included the Europol-related problems.[5] The early mission of EDU is to exchange the information on the investigation of the drug-related crimes and special

criminal cases between members and to report not the non-personal information, but the general situations and the crime analyses.[6] After the official activities since 1 July 1991, the jurisdiction of Europol and previous EDU spread over ① trafficking in nuclear and radioactive substances, illegal immigrant smuggling, illegal motor vehicle crime, and associated money-laundering operations by joint action revised by minister convention in 10 March 1995, ② human trafficking by joint action in 16 December 1996, ③ illegal arms trade and environment crime in the type of other critical international crime on article 2, clause 1 of the Europol convention since 1 October 1998, ④ illegal money-laundering activities, not crime-related money-laundering activities in the protocol on the revision of article 2 and its annex of the Europol convention in 30 November 2000.

2.2. Objectives and Tasks

The objective of Europol is to improve the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating international terror, unlawful drug trafficking, trafficking in nuclear and radioactive substances, illegal money-laundering activities, illegal immigrant smuggling, motor vehicle crime, and other critical crimes done by crime group related with two or more Member States on article 2, clause 1 of the convention.[7] Those critical crimes are related with international organized crime group, and mean the crimes that have practical symptoms that affect more than two countries in the shape of crimes that need members' joint correspondence owing to the scale, significance and consequences of the offences concerned. The range of Europol's jurisdiction crime can be enlarged by the Europol convention and the unanimous decision of European Council.

The tasks of Europol is to facilitate the exchange of information between the Member States about international crime, international normal crime, and

to obtain, collate and analyze information and intelligence, and to notify the competent authorities of the Member States via the national units installed by domestic law of each member, and to deliver related information to national unit, and to support criminal investigation from each member, and to computerize and manage collected information such as the name, any alias, date and place of birth, nationality, sex, related crime group, other characteristics of suspect or accomplice.[8]

2.3. Legal Status

Europol doesn't do functional activities or execution force like Federal Bureau of Investigation of the U.S., but supports information service about international crime, technical advise, effective counseling by special professionals like Interpol.[9] But differently with Interpol as non-governmental organization for international cooperation, Europol is governmental organization for international police cooperation having local characteristics.

The reason is that the Europol convention, document directly making Europol, is international convention contracted by the agreements of members, and that each member is nation and that "Europol shall have legal personality", regulated on article 26 of the Europol convention. The legal status of Europol can be confirmed in ① authority to contract international agreement with non-EU country or international organization, including the headquarters agreement with Netherlands, ② possession of the most wide-spread legal and contractual abilities on domestic law of each member, ③ that it can be a concerned party in acquirement, disposal, and lawsuit procedures of movable and immovable property, ④ that the budget is financed from Member States' contributions determined according to the proportion of its gross national product and by other incidental income,[10] ⑤ that Court of Justice of the European Communities has jurisdiction in case of dispute on the interpretation of the Europol convention between

member states.[11]

III. Organization of Europol

Europol is regulated to consist of the Management Board composing organization, the Director, the Financial Controller, and the Financial Committee on article 27 of the Europol convention.

The composition of the detailed organization is as the following <Fig.1.>

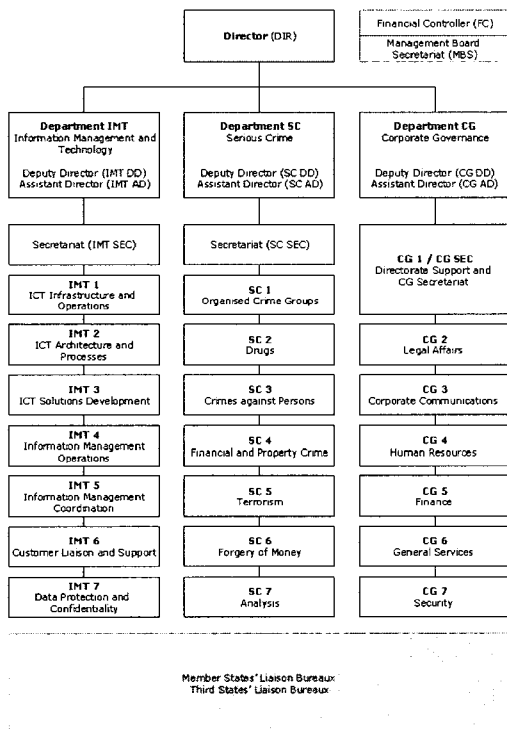


Fig.1. Europol Organization Chart
Source : <http://www.europol.europa.eu>

3.1. The Management Board

The Management Board is composed of 15 representatives as one representative of each Member State of European Union by article 28 of the Europol convention. Each member of the Management Board has one vote. Each member of

the Management Board may be represented by an alternate member; in the absence of the full member, the alternate member may exercise his right to vote. The Commission of the European Communities is invited to attend meetings of the Management Board with non-voting status. However, the Management Board may decide to meet without the Commission representative. The members or alternate members are entitled to be accompanied and advised by experts from their respective Member States at meetings of the Management Board.

The Management Board is chaired by the representative of the Member State holding the Presidency of the Council. The management board is in charge of the following affairs. ①shall take part in the establishment of the priorities for Europol in respect of the combating and prevention of the forms of serious international crime within its mandate, ② shall define unanimously liaison officers' rights and obligations towards Europol, ③shall decide unanimously on the number of liaison officers the Member States may send to Europol, ④shall prepare the implementing rules governing data files, ⑤shall take part in the adoption of rules governing Europol's relations with third States and third bodies with the meaning of Article 10(4), ⑥shall unanimously decide on details concerning the design of the index system, ⑦may instruct the Director of Europol to amend an opening order or close the file, ⑧may deliver opinions on the comments and reports of the joint supervisory body, ⑨shall examine problems which the joint supervisory body brings to its attention, ⑩shall decide on the details of the procedure for checking the legal character of retrievals in the information system, ⑪shall take part in the appointment and dismissal of the Director and Deputy Directors, ⑫shall oversee the proper performance of the Director's duties, ⑬shall take part in the adoption of staff regulations, ⑭shall take part in the preparation of agreements on confidentiality and the adoption of provisions on the

protection of confidentiality. ⑤shall take part in the drawing up of the budget, including the establishment plan, the auditing and the discharge to be given to the Director, ⑥shall adopt unanimously the five-year financing plan. ⑦shall appoint unanimously the financial controller and oversee the performance of his duties, ⑧shall take part in the adoption of the financial regulation, ⑨ shall unanimously approve the conclusion of the headquarters agreement. ⑩shall adopt unanimously the rules for the security clearance of Europol officials, ⑪shall act by a two-thirds majority in disputes between a Member State and Europol or between Member States concerning Compensation paid under the liability for unauthorized or incorrect processing of data, ⑫shall take part in any amendment of this Convention or the Annex thereto, ⑬shall be responsible for any other tasks assigned to it by the Council particularly in provisions for the implementation of this Convention.

The Management Board must adopt a general report on Europol's activities during the previous year and a report on Europol's future activities taking into account Member States' operational requirements and budgetary and staffing implications for Europol. Such reports must be submitted to the Council.[12]

3.2. The Director

Europol is headed by a Director appointed by the Council, acting unanimously after obtaining the opinion of the Management Board, for a four-year period renewable once in accordance with the procedure defined by section 6 of the Treaty on the European Union. The Director is assisted by a number of Deputy Directors as determined by the Council and appointed for a four-year period renewable once, in accordance with the procedure of the director

The Director is responsible for ①performance of the tasks assigned to Europol, ②day-to-day administration, ③personnel management, ④proper

preparation and implementation of the Management Board's decisions, ⑤preparing the draft budget, draft establishment plan and draft five-year financing plan and implementing Europol's budget, ⑥on a regular basis, updating the Management Board on the implementation of the priorities as referred to in Article 2(2), ⑦all other tasks assigned to him in this Convention or by the Management Board. The Director is in charge of the Deputy Directors and employees of Europol. The Director engages and dismisses employees. In selecting employees, in addition to having regard to personal suitability and professional qualifications, the director takes into account the need to ensure the adequate representation of nationals of all Member States and of the official languages of the European Union. The Director is Europol's legal representative and he is accountable to the Management Board in respect of the performance of his duties. He attends its meetings. The Director and the Deputy Directors may be dismissed by a decision of the Council, to be taken by a two-thirds majority of the Member States, after obtaining the opinion of the Management Board.

3.3. The Financial Committee

The Financial Committee is composed of one budgetary representative from each Member State and the presidency of the Council holds the chairman of the committee. Its task is to prepare for discussions on budgetary and financial matters that the Management Board and the Council grant, and to provide information and evidence related monitoring budgetary and financial matters to the Director, and to examine implementing the budget by the rules of sound budgetary operation and of economical efficiency and operational efficiency.[13]

3.4. The Financial Controller

The financial controller is appointed from an official audit body of one of the Member States by the Management Board, and is accountable only to

the Management Board. The financial controller carries out monitoring of the commitment and disbursement of expenditure and of the establishment and collection of income, and examines, estimates, and investigates about the budgetary soundness, the propriety and application and processing of system, the related internal control, and submits the report to the Director and the Management Board.[14]

IV. Criminal Information System

4.1. Establishment of the criminal information system of Europol

As the previous review, Europol was created by the need for the international and organized correspondence to the dysfunction of internationalization - international terror, illegal immigrant smuggling, unlawful drug trafficking, international organizational crime, illegal money-laundering activities, sharply increasing criminal flight to overseas - lead by European economic integration and abolition of the intraregional borders. From the beginning, Europol has made an effort to establish system for sharing the criminal information of intraregional nations and to overcome two uppermost limits that previous Interpol information system had- ①, each NCB had free access to Interpol information, some of which flew out from a few nations to terrorists.[15] ② Interpol had the limit to protect data about the criminal information because it was not a convention between member states, but a gentleman's agreement. [16] Europol installed and operated Computerized System of Collected Information, the criminal information system that computerizes and manages collected data for the storage, modification, utilization of needed data on the basis of article.2, clause.1, item.5 and article.6 of the Europol convention.

This criminal information system consists of Information System, Work File, and Index System.

4.2. Information System

The information system may be used to store, modify and utilize the data related to ①persons who are suspected of having committed or having taken part in a criminal offence for which Europol is competent, ②persons who have been convicted of such an offence, ③surname, maiden name, given names and any alias or assumed name, date and place of birth, nationality, sex, and other characteristics likely to assist in identification, including any specific objective physical characteristics not subject to change, criminal offences, alleged crimes and when and where they were committed, means which were or may be used to commit the crimes, departments handling the case and their filing references, suspected membership of a criminal organization, convictions, where they relate to criminal offences for which Europol is competent about persons who can commit a crime on the account of religion.[17]

4.3. Work File

Work file is about ①persons who are suspected of having committed or having taken part in a criminal offence for which Europol is competent, ②persons who have been convicted of such an offence, ③ persons who can commit a crime on the account of religion, ④persons who might be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings, ⑤persons who have been the victims of one of the offences under consideration, ⑥persons to whom certain facts give reason for believing that they could be the victims of such an offence, ⑦ contacts and associates, ⑧persons who can provide information on the criminal offences under consideration, ⑨criminal offences committed in order to procure the means for perpetrating acts within Europol's sphere of competence, ⑩criminal offences

committed in order to facilitate or carry out acts within Europol's sphere of competence. ①criminal offences committed to ensure the impunity of acts within Europol's sphere of competence.[18]

4.4. Index System

An index system is created by Europol through the regular procedures as follows.[19] The Director, Deputy Directors and duly empowered officials of Europol and liaison officers shall have the right to consult the index system. The index system shall be such that it is clear to the liaison officer consulting it, from the data being consulted, that the files contain data concerning the seconding Member State. Access by liaison officers shall be defined in such a way that it is possible to determine whether or not an item of information is stored, but that it is not possible to establish connections or further conclusions regarding the content of the files. The detailed procedures for the design of the index system shall be defined by the Management Board acting unanimously.

V. Application of the EIS

5.1. Application rules of the EIS

Member States may directly input data in compliance with their national procedures, and Europol may directly input data supplied by third States and third bodies like the U.N. and Interpol and analysis data. Direct access to the information system is restricted solely to national units, liaison officers, the Director, the Deputy Directors and duly empowered Europol officials.[20] The computerized system must under no circumstances be linked to other automated processing systems, except for the automated processing systems of the national units.[21] Only the unit which entered the data may modify, correct or delete such data. Where a unit has reason to believe that data are incorrect or

wishes to supplement them, it immediately informs the inputting unit. The inputting unit examines such notification without delay and if necessary modify, supplement, correct or delete the data immediately. Where there is an obvious contradiction between the data input, the units concerned consult each other and reach agreement.[22] Each Member State designates a national supervisory body, the task of which is to monitor independently, in accordance with its respective national law, the permissibility of the input, the retrieval and any communication to Europol of personal data by the Member State concerned and to examine whether this violates the rights of the data subject. For this purpose, the supervisory body has access at the national unit or at the liaison officers' premises and documents to the data.[23]

An independent joint supervisory body is set up, which has the task of reviewing the activities of Europol in order to ensure that the rights of the individual are not violated by the storage, processing and utilization of the data held by Europol. In addition, the joint supervisory body monitors the permissibility of the transmission of data originating from Europol.[24]

5.2. Cases of the application of the EIS

EIS, like the purpose initially discussed between local nations, is broadly used for the international organizational crime, drug and other critical trafficking, illegal immigrant smuggling, stadium violence, public order, police equipment, training. For non-local nations, it shares information each other by contracting the agreements with third States and non-EU related bodies. These third States are non-EU member states nations and non-EU organizations.[25]

Especially, after the emergence of the euro, the single currency in the EU, the integration of EIS and Counterfeit Money Detection System(CMS) established in European Central Bank is being

driven for reinforcing the investigation against counterfeit money criminal throughout Europe.[26]

And recently, it is increasing to draw up a set of plans for promoting the establishment of law and the international cooperation corresponding the serious cyber crime day by day and to reinforce the correspondence against the specific crime on internet, such as "the commitment on internet of existing crime like fraud, the offer and application of illegal contents, the attack of service refusal, hacking, the theft of identification." [27]

Besides, for more swift, exact, and previous correspondence against the future expecting crime, the largest biometric database in the world is being established, including the fingerprints and pictures of about 70 million people in the EU. That is, 15 EU members, according to Schengen Acquis, for the strengthening of current visa system security and the prevention from passport counterfeit, agreed to integrate EIS and united visa information system established until spring, 2009.[28][29] EIS seeks to speedily change, reflected in the daily changing situations as well as the early creation purpose.

VI. Conclusion

Europol is the organization created by the sign of the Europol convention in 26 July 1995 and the effectuation in 1 October 1998 for European nations' cooperative confrontation with frequent international crimes. From the beginning, Europol established the criminal information system for overcoming the limits of previous international police organization. This system consists of information system, work file, and index system and enables every national unit or other law enforcement agents to collect, exchange, and utilize the information. This gives important suggestions to the police cooperation organization between nations in the informationized society, such as the correspondence against currency crime through the integration with CMS, the attempt of establishment of speedy correspondence

system against cyber crime, in addition to the effective prevention and suppression against the international normal crimes in Europe by collecting and swiftly delivering the information about major international normal crimes including international organizational crime, trafficking in nuclear and radioactive substances, international terror, unlawful drug trafficking.

And this study will research the further study on the application state of EIS individual crime type hereafter and especially on the application plan of the international police cooperation in ASIA, focusing basic proposal points and recognizing the restraint of this study through limited document and internet materials.

참고문헌

- [1] Malcolm Anderson · Monica Den Boer · Peter Cullen · William Gilmore, and Neil Walker, Policing the European Union, Oxford: Clearendon press, 1995, p.53.
- [2] Cyrille Fijnaut, Policing Western Europe: Interpol, Trevi and Europol, Police Studies: The International Review of Police Development, Vol.15., No.3., Autumn 1992, p.102.
- [3] Malcolm Anderson etc., op. cit., p.53.
- [4] Michael Santiago, Europol and Police Cooperation in Europe, Criminology Studies, Vol.11., Lewiston · Queenston · Lampeter: The Edwin Mellen Press, 2000, p.43.
- [5] Tony Bunyan, The Europol Convention, London: A Statewatch publication, 1995, p.1.; Malcolm Anderson etc., op. cit., p.56.
- [6] Agreement on the Establishment of the Europol Drugs Unit (a), (b).
- [7] Europol Convention Article. 2.1.
- [8] Europol Convention Article. 3., 8., 10., 11.
- [9] Chantal Joubert & Hans Bevers, Schengen Investigated: A Comparative Interpretation of the Schengen Provisions on International Police Cooperation in the Light of the European Convention on Human

- Rights, The Hague · London · Boston: Kluwer Law International, 1996, p.41.
- [10] Europol Convention Article. 35.2.
- [11] Protocol drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of European Police Office Article.1.
- [12] Europol Convention Article. 28.10.
- [13] Council Act of 18 January 1999 adopting the Financial Regulation applicable to the budget of Europol Article. 12.
- [14] Council Act of 18 January 1999 adopting the Financial Regulation applicable to the budget of Europol Article. 20.
- [15] John Benyon, Lynne Turnbull, Andrew Willis, Rachel Woodward & Adrian Beck, Police Cooperation in Europe: An Investigation, Leicester: University of Leicester Centre for the Study of Public order, 1995, p.129.; Michael Santiago, op. cit., p.20.; Iias Bantekas, Susan Nash, and Mark Mackarel, International Criminal Law, London Sydney: Cavendish Publishing Limited, 2001, p.215.
- [16] Souheil El Zeim, Striving Towards Common Goals Can European Organizations work together?, Interpol: 75 years of International Police Cooperation, London: Kensington Publications Ltd, 1998, pp.20-22.
- [17] Europol Convention Article.8.1 · 2 · 3.
- [18] Europol Convention Article.2.3, 10.1.
- [19] Europol Convention Article.11.1.
- [20] Europol Convention Article.7.1., 9.1., 11.2., 12.2.
- [21] Europol Convention Article.6~11.
- [22] Europol Convention Article.9.2.
- [23] Europol Convention Article.23.
- [24] Europol Convention Article.24.25.
- [25] Council Decision of 27 March 2000 authorising the Director of Europol to enter into negotiations on agreements with third States and non-EU related bodies Article.2.
- [26] www.police.go.kr
- [27] <http://news.com.com/EU+wages+war+on+cybercrime>
- [28] Electronic Papers, 2007.6.14.
- [29] The 15 members is as follows: France, Germany, Luxembourg, Austria, Belgium, Denmark, Finland, Greece, Iceland, Italy, Norway, Netherlands, Portugal, Spain, Sweden.

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