Freedom, Security, and Justice:

Intern- and Externalization
In the EU and the Member States
after the Lisbon Treaty

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and Paul Luif (Austrian Institute for International Affairs)

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As the EU has evolved, it has also begun to address policy questions which are closer to the very heart of the state. From cooperation in Justice and Home Affairs, originally conceived as the third pillar of European cooperation, has emerged the Area of Freedom, Security, and Justice (AFSJ). A unique aspect of policy in this area is the desire to integrate the internal and external dimensions of this policy area. One of the tensions in this policy area has been balancing the protection of fundamental rights and increasing security.

Many of the developments in the area of AFSJ have been driven by heads of state coming together in European Council meetings: The Hague Programme and the Stockholm Programme have been important to establishing the priorities in this area. Justice issues are also an area where national parliaments have at times played a strong role in scrutinizing developments. With the Lisbon Treaty, the European Commission and in particular the European Parliament play an increasingly important role in setting priorities and overseeing implementation. While we are interested in developments at the EU level, we believe that more research needs to look at the impact which the EU developments in this area have on policy and governance in the member states as part of the implementation process. These challenges involve also the accession countries and the neighbors of the EU. Thus, the external effects of the changes in EU rules will also be analyzed.

This book emerged from a call for papers to the LISBOAN network of 67 European universities, a network funded by the EU’s Erasmus program. What made the conference in The Hague different than most purely academic conferences, was our desire to reach out and also have a
dialogue with civil servants in the government on the topics addressed. This was especially fruitful because our focus on AFSJ is at the national level, so having an exchange of ideas with government policy makers had the potential to bring in current controversies in this young field of policy making, and to gain insights typically shielded from academic scrutiny. Certainly the insights shared triggered theoretical concepts from political science, such as spill-over processes from one policy area to another, internal bureaucratic competition between ministries and political sensitivities in the member states to justice and home affairs issues. Our discussions took place the first day at the Dutch Ministry of the Interior and Kingdom Relations, and the second day at the Dutch national parliament (Tweede Kamer).

The first part of this book focuses on the institutional relations of policymaking in AFSJ, both within member states and between member states. Thus, here we are interested in national executive control, national parliamentary scrutiny and peer review across the member states with regard to AFSJ. The second part focuses on specific policy areas which are part of AFSJ. Here we begin with two papers which highlight the tension found in this policy area between security and human or fundamental rights, the first related to data retention and the second policing external borders. The final two papers are concerned with data exchange between European countries (under the Pruem Treaty) and transatlantically with the US, and the interface between AFSJ and the Common Foreign and Security Policy (CFSP).

The first contribution to this book, by Mendeltje van Keulen, focuses on the member states and their role in both shaping and implementing policy with regards to Justice and Home Affairs, designed to create an Area of Freedom, Security, and Justice in the EU. Here she first discusses executive decision making, and then focuses on national parliamentary scrutiny of this policy area. Policy in this area, ranging from street-level policing to anti-terrorism, forms an institutionally dense and highly political sensitive area. She notes that national parliaments have been active since an early stage in attempting to control the EU-activities of their governments in justice and home affairs in the Council of Ministers. Her article focuses on the parliamentary practices for government oversight of Justice and Home Affairs policies in the Dutch parliament and discusses the implications of this for institutional empowerment.

The second article, by Stine Andersen, examines the peer review process, in which member states, in collaboration with the European Commission, conduct evaluations of member state implementation of AFSJ. She compares the advantages of such peer review based on Article 70 of the TFEU, compared to the general infringement procedure established in Article 258 TFEU. She notes that peer review involves all member states instead of just one, and has the potential to bring about clarification of EU law and an exchange of implementation practices which may general behavioral change. She provides examples from both the Dutch and Danish experiences.
Now turning from these institutional perspectives to particular policy areas, we turn to the contribution of Jeanne Mifsud Bonnici. She is interested in the relationship between security and human rights, and focuses on the Data Retention Directive. She calls for a critical reflection of this directive which was passed in the political climate after September 11 and bombings in London and Madrid, when an anti-terrorism agenda rose quickly to the fore. Next, Luisa Marin investigates the policy related to the externalization of undocumented migration controls as a potential threat to fundamental human rights. Her focus is on a legal analysis of current inception operations in the Mediterranean Sea.

Next Paul Luif and Florian Trauner focus on the EU-US relations and agreements on the exchange of information related to organized crime. The Pruem Treaty, confined to the EU’s territory, became the basis for a much wider transatlantic data exchange program. Finally, Peter van Elsuwege turns our attention to the interface between the Area of Freedom, Security and Justice and the Common Foreign and Security Policy of the EU. He notes that although the distinction between the internal and external aspects of security is highly superficial, the division remains crucial for the determination of the legal basis and decision-making procedures. He illustrates this tension by investigating the practice of adopting restrictive sanctions against individuals and non-state entities.

**A Brief Overview of Governance changes in the Area of Freedom, Security and Justice after the Lisbon Treaty**

European integration began in the early 1950s with the founding of the ECSC (European Coal and Steel Community) in 1952. The attempt to create a Defense Community collapsed in the mid-1950s. From then on, economic cooperation remained at the center of (West-)European integration, embodied by the EEC (European Economic Community), established in 1958.

Informal coordination of Justice and Home Affairs (which with the Amsterdam Treaty became the “Area of Freedom, Security and Justice”) among the EC states started with the so-called TREVI cooperation, proposed by British Foreign Secretary James Callaghan at the European Council meeting on 1/2 December 1975 in Rome.\(^1\) The first meeting of the ministers for interior and justice took place in June 1976, dealing with terrorism, serious crimes, drugs and police

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cooperation. The ministers met annually and established several working groups of high officials.²

The European Political Cooperation (EPC), which had been founded in 1970 to informally coordinate the foreign policies of the EC member states, formed also a group dealing with the cooperation in civil and criminal matters. Several conventions were agreed before 1993 in this framework, but only the Rome and Dublin Conventions (dealing respectively with conflict of law in contractual disputes and allocation of responsibility over asylum applications) were ever ratified.³

In October 1986 an Ad-Hoc-Group Immigration was established, which created five sub-groups dealing i.a. with asylum, visa and external borders. With the efforts to complete the internal market, the coordination of customs cooperation became the task of the Groupe d’assistance mutuelle (GAM). In December 1989, a Comité européen de lutte antidrogue (CELAD) was created by the European Council of Strasbourg.⁴ Besides this collaboration in Justice and Home Affairs which included all EC member states, the Schengen cooperation, dealing with the removal of personal controls at the internal borders, was initiated in 1985 by five EC countries.

This fragmented situation was somewhat simplified by the Maastricht Treaty (in force 1993) which introduced a “Third Pillar”, dealing with all matters of Justice and Home Affairs. With the Amsterdam Treaty (in force 1999) some parts of Justice and Home Affairs were moved into the supranational “First Pillar”: visas, asylum, immigration and other policies related to free movement of persons. Provisions on police and judicial cooperation in criminal matters were left in the intergovernmental Third Pillar. A Protocol integrating the Schengen acquis into the framework of the European Union was annexed to the Amsterdam Treaty.

With the Lisbon Treaty, in force since 1 December 2009, all matters concerning the Area of Freedom, Security and Justice are grouped together in Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU). Most of the decisions in this area are now made according to the ordinary legislative procedure, with the Commission proposing legislation, the Council (by qualified majority) as well as the European Parliament (by simple majority) deciding on the legislation and the Court of Justice judging the legality of the acts.

² See Müller, note 1, pp. 123, 177/178.
⁴ Müller, note 1, p. 183.
The Common Foreign and Security Policy (CFSP) thus remains the only area of the EU where, in spite of the abolishment of the “Pillars”, decision-making is still done in an “intergovernmental” way. The reasons for “supranational” decision-making in the whole Area of Freedom, Security and Justice, but not in CFSP affairs, seems to be that for CFSP matters there still exists NATO as an alternative. The external status of the EU member states is different: NATO members, neutrals and non-aligned. In contrast to internal security, external security still seems to be “high politics”.

Nevertheless, the cross-border challenges for internal security have increased over time, particularly since the end of the Cold War. In the first decade of the 21st century, the European Council established lists of key external challenges and threats for the Union. Table 1 shows the key challenges for the EU, both from an external as well as an internal security perspective. In the mid-2000s, they were rather similar.

Table 1

<table>
<thead>
<tr>
<th>Source</th>
<th>“Key Threats” of the European Security Strategy and “Key Thematic Priorities” of the Strategy for the External Dimension of Justice and Home Affairs (JHA)</th>
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<td><strong>European Security Strategy</strong> : Key threats (December 2003)</td>
<td><strong>Strategy for the External Dimension of JHA</strong> : Key thematic priorities (December 2005)</td>
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<td>Terrorism</td>
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<td>Organised crime</td>
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<td>State failure</td>
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<td>Regional conflicts</td>
<td>Migration</td>
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<td>Proliferation of weapons of mass destruction</td>
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In March 2010, the European Council approved a list of common threats for the Union in its Internal Security Strategy.\(^5\) The main challenges for the internal security of the EU are, according to this catalog:

- Terrorism, in any form
- Serious and organised crime
- Cybercrime
- Cross-border crime
- Violence itself (youth or hooligan violence at sports events)
- Natural and man-made disasters
- Other common phenomena (e.g. road traffic accidents)

According to Article 4 TFEU the Area of Freedom, Security and Justice belongs to the shared competences of the EU. Both the Union and the member states may legislate in that area. But the member states can exercise their competence only to the extent that the Union has not exercised its powers.\(^6\)

As already mentioned, Title V TFEU introduced the “ordinary legislative procedures” for the whole area, but with some modifications: In Chapters 4 (judicial cooperation in criminal matters) and 5 (police cooperation), acts can be adopted by a proposal from the Commission, but also “on the initiative of a quarter of the Member States” (Article 76(b) TFEU), thus bringing an exception to the Commission’s sole right for proposals of legal acts. But when an act is not based on a proposal by the Commission, then the rules of qualified majority in the Council change. The qualified majority is here defined as at least 72 percent of the member states (instead of the usual 55 percent), comprising at least 65 % of the population of these States (Article 238(3b) TFEU). Until 2014/2017, the qualified majority is 255 votes plus at least two thirds of member states (instead of a simple majority), according to Protocol No. 36 on Transitional Provisions. In addition, Protocol No. 2 on the Application of the Principles of Subsidiarity and Proportionality reduces the threshold for forcing the Commission to review a draft act when it is not complying with the principle of subsidiarity from a third of all national Parliaments to a quarter.


\(^6\) In American law, this effect (member states can only legislate in an area as long as the Union did not do so) is called “preemption” of state law by federal law.
There is one obvious limit for the EU to legislate in the Area of Freedom, Security and Justice: the maintenance of law and order and the safeguarding of internal security (Article 72 TFEU). Still, the Lisbon Treaty brought an extension of the EU competencies. An example are the measures on asylum that are now not limited to the establishment of minimum standards, but the EU can “adopt measures for a common European asylum system” (Article 78 TFEU). A “common immigration policy” is mentioned in Article 79 TFEU. However, this Article does not affect the right of member states to determine the volumes of admission of non-EU nationals to seek work.

Some articles bring innovations in decision-making. Since criminal law is such a politically sensitive area, relevant articles include an “emergency brake”: when a member state thinks that a draft directive would affect fundamental aspects of its criminal justice system, it can request that the draft be referred to the European Council — and thus substituting qualified majority voting of the ordinary legislative procedure with unanimity (Articles 82 and 83 TFEU). If no consensus is reached, a minimum of nine member states can establish enhanced cooperation on the basis of the directive. Article 86 on the establishment by unanimity of an European Public Prosecutor’s Office contains an “emergency accelerator”. In the absence of unanimity in the Council, at least nine member states may refer the decision to the European Council. If the latter does not reach a consensus, at least nine member states can create such an Office, again based on the rules of enhanced cooperation.

According to Article 71 TFEU, a Standing Committee on operational cooperation on internal security (COSI, Comité permanent de coopération opérationnelle en matière de sécurité intérieure) was established. It consists of high-level officials from EU States’ ministries of the interior and of Commission representatives. Eurojust, Europol, Frontex and other relevant bodies may be invited to attend meetings of COSI as observers. This Committee resembles a bit the PSC (Political and Security Committee) for the CFSP. But it does not have the competence to adopt legislative measures and does not conduct operations.

According to the Council Decision setting up COSI,⁷ the Committee has the following tasks:

- to facilitate and ensure effective operational cooperation and coordination in the field of EU internal security;
- to evaluate the general direction and efficiency of operational cooperation

– to assist the Council in reacting to terrorist attacks or natural or man-made disasters (solidarity clause of Article 222 TFEU).
– to coordinate, support and monitor the development and implementation of the Internal Security Strategy (added by Council conclusion 24/25 February 2011).

The Protocol No. 36 on Transitional Provisions states that the legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted on the basis of the Treaty on European Union prior to the entry into force of the Treaty of Lisbon shall be preserved until those acts are repealed, annulled or amended in implementation of the Treaties. The role of the Commission in infringement actions and the jurisdiction of the Court of Justice remains the same for the former Third Pillar measures for a five-year transitional period.

The Lisbon Treaty has changed the practice of decision-making in the EU. The now legally binding Charter of Fundamental Rights attained more influence on legal considerations and affects the political debate. On a daily basis, not much has changed in internal decision-making, in particular in the working groups/parties of the Council. Only in the final stages, the importance of the European Parliament has increased. The extension of the ordinary legislative procedure to most parts of Justice and Home Affairs had some impact on the actors:

– The role of the Commission has been diminished. It is not the honest broker any more.
– The negotiation strategies have changed, but:
  The Council should, but does not always take the European Parliament seriously.
  The European Parliament acts mostly as guardian of human rights.

The agencies (Europol etc.) perform their tasks independently of the Commission. External relations have now become even more complicated. This matters, since the external dimension has become more important in internal security matters.

Finally, with the Stockholm Programme from December 2009 and the Commission’s Action Plan Implementing the Stockholm Programme from April 2010, the EU has a blueprint for its activities in Justice and Home Affairs for the next five years.

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8 Information from Martin Schieffer, European Commission.
We hope that with this book, focused first on the institutional relations of policymaking in AFSJ within and between member states, and then on specific policy areas or themes, including the tension between security and fundamental rights, data retention, the policing of external borders, and the interface of ASFJ with the Common Foreign and Security Policy, will contribute to the on-going debate by academic and policymakers in this critical area of European and national policy making.
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Abstracts

Mendeltje van Keulen


The policy field of Justice and Home Affairs aims to realise a EU-wide Area of Freedom, security and justice. The topics at stake range from street-level policing to anti-drugs policy and from customs cooperation to data protection and anti-terrorism, on the shaping sides. ‘JHA’, as it is known in Brussels jargon, forms a particularly complex, institutionally dense and politically sensitive area. The field also stands out from other policy domains as also the national parliaments, the traditional ‘losers’ of European integration, have from a relatively early stage been active in controlling the EU-activities of their governments in the Council of Ministers. Thereby, the national legislatives’ activity in the field of JHA has preceded the more recent trend of parliamentary involvement in EU affairs. This paper describes the parliamentary practices on Justice and Home affairs policies in the Dutch parliament and discusses a number of implications of institutional empowerment.

Stine Andersen


This chapter examines Article 70 TFEU, which provides a legal basis for objective and impartial evaluation of member state implementation within an Area of Freedom, Security and Justice (AFSJ). Several points pertaining to the effectiveness of peer evaluation as a means of enforcement are discussed. Specifically, it is explored how non-binding arrangements display potential to bring about clarification of EU law and the correct implementation thereof as well as to generate behavioural change. The analysis is in part theoretical and in part based on practical experiences gained by Dutch and Danish officials engaged with peer review. Furthermore, it is argued, peer review arrangements based on Article 70 TFEU may also bring about an incremental adaptation of national practices and implementing measures. Finally, the role of the European Parliament according to Article 70 TFEU is appraised.
4. Redefining the relationship between security, data retention and human rights

Post September 11 and the Madrid and London bombings, the EU security and anti-terrorism agenda pushed through a number of, what seemed to be at the time, necessary but controversial policies and legislation aimed at intelligence gathering and preventive action. On the one hand a pro-security lobby developed arguing that unless citizens are safe no other rights can be protected by states. On the other hand the necessity and proportionality lobby argue that there is no legal basis for unlimited and unrestrained invasion of fundamental rights of citizens in the name of security. One such controversial legislation was the Data Retention Directive (Directive 2006/24/EC): the aim is to allow the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks. Its passage into law was not easy. Its legal basis was even questioned before the European Court of Justice.\(^{11}\) The unease about its legality did not stop there: three national constitutional courts – the Romanian Constitutional Court in October 2009\(^ {12}\), the German Federal Constitutional Court in March 2010\(^ {13}\) and the Czech Constitutional Court in March 2011\(^ {14}\) – annulled the laws transposing the Directive in the respective jurisdictions on the basis that they were unconstitutional.

This chapter reflects on what is actually going on, now between 5-10 years after the enactment of the controversial laws. Particularly since the introduction of the Data Retention Directive, the general EU legal context relevant to the Directive has changed. With the coming into force of the Lisbon Treaty, the pillar structure is no more. The abolition of the pillar structure reopens the discussion on the legal basis of the Directive, and whether now that the pillar strictures are no more the legal basis of the Directive should be rethought. A second important change is the confirmation of the legal effect of the Charter of Fundamental Rights of the EU having the same legal value as the Treaties and the subsequent debates (particularly in communications between the Commission and Council and debates of the European Parliament) on a proper human rights and rule of law approach to areas of freedom, security and justice.

The author argues that taking the changes in the wider European Union legal framework together with the changed political reality, empirical evidence of the results obtained from the national implementation of the Data Retention Directive, the guidance offered in the various national court decisions, and the current exercise of evaluation by the Commission, we are now able to rethink and redefine the relationship between security, the need for intelligence

\(^{11}\) ECJ, C-301/6 Ireland v Parliament and Council, ECR [2009] I-00593
\(^{12}\) Decision no 1258 from 8 October 2009 of the Romanian Constitutional Court
\(^{13}\) Budesverfassungsgericht, 1 BvR 256/08
\(^{14}\) Judgment of the Czech Constitutional Court of 22 March on Act No. 127/2005 and Decree No 485/2005
gathering and protection of fundamental rights. Yet while arguing for this redefinition, the paper also reflects on the chances that this process of redefinition actually takes place: is this yet another case of opportunistic pragmatism?

Luisa Marin


This chapter deals with policing the external borders of the European Union, an issue that recently has witnessed significant developments in connection with the externalization of the fight against undocumented migration. After a presentation of the theoretical framework conceptual elements underpinning the research (1), the paper will present diversion or interception operations of undocumented migrants in the Mediterranean Sea. These operations are carried out by some EU’s member states in occasion or alongside Frontex-coordinated operations of control of southern maritime borders (2). The paper will then qualify those operations in legal terms (3), and present the problems arising from these recent forms of operational cooperation among Member States (MS) and coordinated by the agency Frontex. A last section (4) will discuss the impact of those operations as examples of externalization of migration controls on fundamental human rights obligations of the MS, with specific attention to the EU Charter of Fundamental Rights and the European Convention of Human Rights. The latter instrument in particular offers an interesting prism for analysis, thanks to the recent judgment in the case of M.S.S. v. Belgium and Greece (Application no. 30696/09, judgment of 21 January 2011, Grand Chamber) and also to the case of Hirsi et al. v. Italy (Application no. 27765/09, pending). The first case, though concerning asylum cooperation within the framework of the Common European Asylum System (CEAS), clarifies, mutatis mutandis, the role and the legal liability within the Conventional system of MS while cooperating within European legal framework, such as the CEAS; the second case, currently pending, will possibly clarify the role of Frontex while coordinating joint operations, carried out alongside diversion operations taken under the responsibility of a single member state, on the basis of bilateral agreements with third countries.

Paul Luif and Florian Trauner

6. The Prüm Treaty and EU-US relations: the dynamics of exporting/importing a data exchange regime

The Prüm Treaty is an agreement to exchange data on organized crime. Launched as an intergovernmental initiative among some member states in May 2005, the Prüm Treaty
become part of the EU’s legal framework in June 2007. Relatively quickly, this data exchange regime did not remain confined to the EU’s territory. In particular the US displayed a strong interest to sign comparable data exchange agreements with individual EU member states. Rather than cooperating with the EU as a whole, however, the US approached EU member states on a case-by-case approach, threatening to introduce a restrictive visa regime, should the target European states refrain from accepting the agreement. This article investigates the process and the EU-US relations in this particular field of cooperation, elaborating on the underlying dynamics and actors’ interests in establishing a new regime on transatlantic data exchange.

Peter Van Elsuwege

7. The Interface between the Area of Freedom, Security and Justice and the Common Foreign and Security Policy of the European Union: Legal Constraints to Political Objectives

The Treaty of Lisbon formally abolished the pillar structure and introduced a separate Title on the establishment of an “Area of Freedom Security and Justice” (AFSJ) in the Treaty on the Functioning of the European Union (TFEU). Shortly after the entry into force of this new legal framework, the European Council adopted the Stockholm programme laying down the EU’s political priorities for the development of the AFSJ. One of the identified objectives is to ensure the integration of the EU’s policies in the AFSJ into the external policies of the Union, including the Common Foreign and Security Policy (CFSP) of the Union. This requires increased coherence between traditional external security instruments and internal policy instruments with a significant external dimension, such as the instruments adopted in the context of the AFSP.

In this chapter it is argued that the political objective of increased foreign policy coherence faces significant legal obstacles, mainly because the CFSP remains subject to specific rules and procedures. Despite the growing recognition that a distinction between the internal and external aspects of security is highly superficial, this division remains crucial for the determination of the appropriate legal bases and decision-making procedures. The “mutual non-affectation clause” of Article 40 of the Treaty on European Union (TEU) confirms the importance of the interface between the CFSP and the other policies of the Union.

The difficulties in defining the exact boundaries between the AFSJ and the CFSP are illustrated with the practice of adopting restrictive sanctions against individuals and non-State entities. Such measures can be adopted on the basis Article 75 TFEU in the context of the AFSJ and with
regard to the implementation of the CFSP on the basis of Article 215 TFEU. Significantly, both provisions require different decision-making procedures. It is argued that this increases the potential for inter-institutional litigation as is illustrated with a pending Court case between the European Parliament and the Council on the adoption of Regulation 881/2001 imposing restrictive measures directed against persons associated with Usama bin Laden, Al Qaida and the Taliban.
Short Biographies of the Editors and Contributing Authors

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He is broadly interested in the European Union and its impact on democratic processes in the member states. He serves as one of four senior European Union experts for the Network of Socio-Economic Experts in the Field of Anti-Discrimination, established by the European Commission to monitor the implementation of the equality and non-discrimination directives in the EU member states. He was Visiting Professor at the University of Paris 1, Sorbonne in fall 2005, and a recipient of the Jean Monnet Fellowship to the European University Institute (EUI), Florence in 2006. He most recently was visiting scholar during spring 2010 at the Institute for the Study of Human Rights (ISHR) at Columbia University in New York.


**Paul Luif** has a doctorate in law and is “Dozent” in political science. He was assistant professor for international relations at Salzburg University, 1974–1980, and has been member of the scientific staff of the Austrian Institute for International Affairs, Vienna, since 1980. He is also lecturer at the University of Vienna. His main topics of research are the European Union (in particular the Common Foreign and Security Policy as well as Justice and Home Affairs) and the foreign policies of small states.

Publications i.a.:

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Jeanne Pia Mifsud Bonnici is a Rosalind Franklin Fellow and Chair in European Technology Law and Human Rights at the Department of European and Economic Law at the Faculty of Law of the University of Groningen. Previously she was a Senior Researcher at the Institute for Information Law (IViR) at the University of Amsterdam as a Senior Researcher. She holds two doctorates in law (LL.D - University of Malta, 1995 and PhD - University of Groningen, 2007) as well as a Masters in Cognitive Science (University of Birmingham, 1996). Prof. Mifsud Bonnici has carried out extensive research on the role of self-regulation in the regulation of activities on the Internet and has authored a book on “Self-regulation in Cyberspace (Asser Press, 2008). In this study she examined the interaction between state regulation and private regulation in the regulation of Internet activities. For over 15 years she has researched and written on different aspects of data protection law and privacy especially issues relating to healthcare, medical information and police data. Jeanne Pia Mifsud Bonnici was also involved in the drafting of the earlier versions of the Data Protection and Freedom of Information Bills for Malta as well as a project examining the implementation of Council of Europe and European Union rules on medical data in 23 countries. She currently leads Work Packages in three projects (CONSENT, SMART and RESEPECT) funded by the European Union 7th Framework Programme: two of these projects relate specifically to surveillance information (including that collected under the Data Retention Directive) and the use of this information by law enforcement authorities. She is most recently the author of ‘Self-regulation in Cyberspace’ T.M.C. Asser Press: The Hague, 2008.

Mendeltje van Keulen is clerk of the standing committee on EU affairs of the Tweede Kamer, the Dutch House of Representatives, and co-ordinator of the parliamentary EU staff. As an EU public administration specialist, she worked from 2000 to 2009 as research fellow for the Netherlands Institute of International Relations ‘Clingendael’ and for the Scientific Council for Government Policy WRR as co-author on a report on EU legitimacy in the Netherlands post-referendum. Educated at the University of Twente, the Bruges’ College of Europe and the European University Institute in Florence, she published in 2006 her dissertation ‘Going Europe or Going Dutch’, a study on EU interest representation by the Netherlands government (Amsterdam University Press, 2006). Mendeltje van Keulen publishes and teaches regularly on parliamentary EU involvement, national coordination of EU affairs and European integration.

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Florian Trauner is a Researcher at the Institute for European Integration Research of the Austrian Academy of Sciences. He was an Associate Research Fellow at the Centre for European Policy Studies (CEPS) in Brussels (2007-2008) and a Visiting Fellow at the European Union Institute for Security Studies (EU ISS) in Paris (2010). His research interests include the field of EU justice and home affairs as well as the European neighbourhood and enlargement policies. He is author of The Europeanisation of the Western Balkans: EU Justice and Home Affairs in Croatia and Macedonia (Manchester University Press, 2011) as well as a contributor to journals.
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