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10. Observations concerning recent police service reorganisations in Western Europe

Cyrille Fijnaut

10.1 Introduction

It is a considerable challenge to offer a concise yet meaningful contribution concerning the recent reorganisation of police services. I will begin by describing the perspective from which the changes in question will be examined, before detailing the limitations of this approach and, finally, saying something about its structure.

Three important and predominantly normative issues have traditionally featured in the European debate about policing. The first concerns the powers of the police and the way these are exercised. The second relates to the internal and operational organisation of police forces. The third issue is a constitutional one, namely the embedding of the policing apparatus in the political system in terms of its relations with national, regional and local administrative, judicial and, in certain cases, military authorities. This article will only consider the reorganisation of police services in the light of the latter issue - in other words, from a constitutional perspective.

In addition to this significant limitation, I have also adopted certain other important restrictions. In the first place, attention will only be focused on developments in the political organisation of regular police services. Other aspects such as inspection services, the steady proliferation of private security and the intelligence services - civilian and military will not, therefore, be taken into account. Secondly, for a variety of reasons, including political systems that differ too markedly and a lack of proper empirical study, only developments in a small number of countries will be examined, namely Belgium, the Netherlands, the United Kingdom and France. Germany has not been included as it is some considerable time since an analysis of the general development of the German police service has been carried out.

Our comparison of the changes experienced by the police services in these four countries will begin with an account of the reform of the Belgian police. This has, of course, been a spectacular example, carried out in the aftermath of the Dutroux Affair. It is still interesting, however, to consider the extent to which the reorganisation initiated in Belgium matches developments

that have been occurring in certain neighbouring countries. We will then switch our attention to the evolution of the policing system in the Netherlands Belgium's main partner in Benelux - and that of the British and French police services.

10.2 The reorganisation of the Belgian regular policing system

There are no simple, uncomplicated police services. All of them are structured in a complex manner. This reflects the fact that they have to maintain relations with a highly varied spectrum of authorities and institutions, that police forces have to perform the widest imaginable range of tasks and that they are the product of complex political histories. The complicated organisation of the Belgian police service, therefore, is by no means exceptional.

Its current structure continues to reflect the French origins of the apparatus. On the one hand, each municipality has its own civilian police department, while on the other, there is a national force known as the Rijkswacht/Gendarmerie. What is more, a separate judicial police force was created in Belgium in 1919, as it was in other European countries at the time, with a judicial police squad attached to each local Prosecutor's Office. This branch of the police was not, therefore, conceived as a centrally administered service.

In formal terms, the structure of the country's police service has always been problematic, as the three branches of the police are charged with the same tasks -especially in the judicial field - and have the same powers. There were few problems in practice, however, until the 1960s, as the functional operations of the relevant services were de facto separated: the gendarmerie concentrated on maintaining public order, the judicial police on investigating serious crime and the municipal forces on local policing.

In the 1960s and 70s, however, this situation changed fairly drastically. The harmony that had previously existed between the different branches of the police was transformed into rivalry and conflict. This affected the relationship between the gendarmerie and the municipal police in terms of the performance of local policing duties, especially in larger municipalities and the cities. Rivalry also arose between the gendarmerie and the judicial police concerning the investigation of serious crime. Relations became so strained that people began to talk about a 'police war'. The negative repercussions of this conflict became all too plain in the 1980s. In 1985, for instance, there was a failure in policing at the football game between Liverpool and Juventus at the Heysel Stadium in Brussels, when 38 fans were killed. This followed in the wake of the 'Nivelles Gang' Affair in the early 1980s, when no fewer than 30 people were murdered in the course of over 20 robberies and assaults. No arrests were ever made, due in part to the turf war going on between the judicial police and the gendarmerie.

Under pressure from Parliament, a number of important measures were taken in the early 1980s, with a view to improving the situation. The implementation of these measures created the strategic conditions for much more fundamental reforms of the kind now in train in the wake of the Dutroux Affair - a fact that is often overlooked in the current debate. The first measure was the external demilitarisation of the gendarmerie - in other words the transfer of administration from the Ministry of Defence to the Ministry of the Interior. This process inevitably had significant repercussions, however, on internal relations within the corps and gradually brought about its internal demilitarisation as well. The second measure embraced the modernisation and professionalisation of municipal police forces, to enable them increasingly to take on the role of 'first blue line'. The primary upshot of this measure was that the forces in question were able - backed with financial and other support from central government - to raise the quality of their equipment, accommodation, training systems and so on. This was achieved in the course of the 1980s. The third measure was aimed at the judicial police and produced a degree of centralisation in the force's administration and operation. For a variety of reasons, little came of this measure. The fourth important development was the creation of a joint support service for the three branches of the police (responsible for activities like the co-ordination of international relations) and the formation of local and provincial consultative structures between local government, public prosecutors and police chiefs.

In 1997, the parliamentary commissions convened mid-decade to scrutinise the criminal investigations into the 'Nivelles Gang' and the Dutroux Affair published a variety of recommendations envisaging the fundamental reform of the police service. Both commissions called for the gendarmerie and the judicial police to be combined in a new national police force. The Dutroux Commission went further, arguing that the municipal police should also be involved in the reorganisation and recommending the creation of a police service organised on two levels - local and national - but which would function in a fully integrated manner. The Nivelles Gang Commission did not express any view in this regard.

The government was initially reluctant to accept the recommendations of the Dutroux Commission. In October 1997, it published a plan under the terms of which the gendarmerie and judicial police would be integrated, but not the gendarmerie and municipal police departments. All that was to happen at local level was that collaboration between the two branches was to be intensified. The parliamentary opposition in particular was unhappy with this plan and campaigned continuously against it. This resistance slowed down the implementation of the plan but did not persuade the government to change track. It took the short-lived escape of Marc Dutroux and the subsequent resignation of the Ministers of Justice and Internal Affairs in April 1998 to produce a change of heart. The government now convened a series of meetings - the 'Octopus Talks' as they came to be known - to find a way out of the impasse in the political debate surrounding police reform. Incidentally, although it is not our

direct concern, we ought not to forget that reform of the justice system was also an important focus of debate.

The Octopus Talks produced an agreement in May regarding the reorganisation of the police service. This was translated into a draft law that was presented to Parliament a few months later. The key points were as follows:

The gendarmerie, or at least its non-local units, will be integrated with the judicial police to form a federal police force under the overall command of the Ministers of Justice and Internal Affairs;

Local units of the gendarmerie will be merged with the municipal police departments to form around 200 local police departments of varying size, chiefly under the command of local administrative and judicial authorities (burgomasters, municipal councils and public prosecutors);

Relationships between the new federal police and local police departments will be purely functional and not hierarchical: the local police will carry out certain federal policing tasks while the federal police will support local departments in the pursuit of their duties.

At first sight, one might conclude from the outlines of these measures that with the exception of the partial integration of the existing national police services at federal level, the reform of the police largely amounts to their decentralisation. Things are, however, more complicated than that. The Minister of Internal Affairs, for instance, will gain a great deal of influence - in collaboration, in some cases, with the Minister of Justice - over the organisation and operation of local police forces, especially in terms of officers' careers, internal organisation and of equipment, budget and policy planning. It is no exaggeration, therefore, to conclude that the decentralisation of the police service will be neutralised in key respects by a contrary movement towards centralisation. Belgium's police service will consist in the future of a complicated centralised/decentralised system comprising one federal police force and 200 local police departments.

At the end of the day, the two key words when seeking to understand the reform of the Belgian police service are 'integration' and 'decentralisation' - that is, the integration of police forces and the decentralisation of control over them. We will now see what emerges when we analyse the development of the police services in several neighbouring countries in the light of these two concepts.

10.3 The development of the police services in the Netherlands, the United Kingdom and France

The recent reorganisation of the Dutch police service

The reorganisation of the Dutch police service, which was finalised in 1994, was very similar at first sight to the forthcoming reform of the Belgian police.

It too entailed the integration of the two main branches of the police - a national force on the one hand and around 150 local police departments on the other. However, several provisos ought to be stated:

- The integration process was limited to the locally active units of the national police and municipal police departments. Unlike Belgium, therefore, it did not include the nation-wide new operations of the national police, which were made the responsibility of a national police force, nor did it include other national services like the royal marechaussee or specialised regulatory agencies like the economic investigation service, all of which retained their autonomy;
- The number of new local police departments in the Netherlands was limited to 25 rather than 150 or more as in Belgium, which might go a long way towards explaining the difference between the new Dutch national police force and the planned Belgian federal police service: the Dutch force will primarily offer support and auxiliary services to the regional departments, while its Belgian counterpart will also be given important operational duties - certainly in the judicial field - which it must be able to perform autonomously.

As in Belgium, the reorganisation of the Dutch police service may be characterised - at first sight, at least - as a form of decentralisation of the existing system through the partial integration of the existing forces. Such a reading would not, however, do justice to the fact that, as in the Belgian situation, the national government has an important part to play in the administration of the regional police services, so that it would once again be more accurate to refer to a mixed centralised/decentralised police service.

We should also note that, even if the present government will not hear of it, many people take the view that the 25 regional police departments might usefully be integrated, together with the national police force and possibly the royal marechaussee, to form a single state police force, of which they would be the regional units. One of the arguments presented in support of this view is that such a transformation would considerably reduce the co-ordination problems that currently exist between the individual forces, especially those relating to the investigation of serious crime at national and international level. Another argument presented in this discussion is that such reorganisation would sharply reduce the cost of training, accommodation, technology and so on.

The development of the British police service in recent years

Anyone wishing to compare continental police forces with the British service has to be aware that Great Britain, unlike Belgium and the Netherlands, has never had a dual system of policing, with municipal forces on the one hand and one or more national police services on the other. The British State only organised services of this nature in its colonies, such as Ireland and India. For

purposes of comparison, however, we can still make a number of observations regarding the development of the British police service.

In the first place, we ought not to overlook the fact that many smaller local police forces in the UK had already been integrated in the 1960s, when they were merged to form relatively large regional forces, of which there are now more than 40. The 1994 Police Act created the scope for more fundamental amalgamations of this kind, but this has not yet been exploited.¹⁰ This does not diminish the fact, however, that, taking account of developments in Belgium and the Netherlands, there appears to be evidence here of an international trend towards the regionalisation of police services through the integration of local police forces and locally-operating units of the national police.

In the second place, central government in the shape of the Home Office has adopted an increasingly influential position within Britain's overall policing system. It has done so in a variety of ways:

- Through the increasing recognition of the Association of Chiefs of Police (ACPO) as a negotiating partner at national level;
- Through the strengthening of the role of the Inspectorate of Constabularies;
- Through the financing of police forces (up to 75% of their budget);
- By reducing the role of local Police Authorities.

In other words, Britain's police service has been significantly centralised in recent years, and in this respect too, there is thus a similarity between developments in Belgium and the Netherlands and those in the UK. We ought also to refer in this context to the 1997 Police Act, which sets out the formal status of the National Criminal Intelligence Service and creates a National Crime Squad. Does all of this represent the formation of an embryonic national UK police force for the first time in British history? Researchers like R. Morgan and T. Newburn would applaud such a development for a variety of reasons, not least the fact that it would mount a more effective response to serious (organised, international) crime. A second factor is that it would clarify the political responsibility of the Home Secretary for the activities of the police service.

Plainly, were the UK to go ahead with the creation of a national police force separate from the existing regional forces, the British situation would come much more closely to resemble that in countries like Belgium and the Netherlands in terms of integration and central centralisation/decentralisation.

The current status of policing in France

The French police service has also experienced a good deal of turbulence in recent years, but no fundamental reorganisation has taken place.¹³ There has been no integration, for instance, between the national police and the *gendarmerie* at national, regional or local level. One might even say, albeit with a

touch of exaggeration, that local policing in France has actually been moving in the opposite direction - towards disintegration - primarily through the rise and reinforcement of municipal police departments in larger locations.

Secondly, it should also be stressed that while the (military) gendarmerie has functioned as a central, national police service since 1720, the (civilian) national police -formed by the amalgamation and centralisation of what were previously municipal police departments - also dates back for more than 50 years (since the Vichy regime). Consequently, the centralisation of the regular police service in France is simply not an issue.

There was something of a debate in the 1980s concerning the possible decentralisation of national policing operations to the level of the country's *departements*. For a variety of reasons, however, nothing ever came of it. Even so, the initiative shows that in France, too, a degree of regionalisation in the policing apparatus - to somewhere halfway between national and local level - was viewed at the time as an appropriate way of striking a balance between the national and local interests that are always at stake in policing.

10.4 Conclusion

Even this brief comparison of four neighbouring police systems shows the difficulty of finding a common denominator with which to analyse the changes that have occurred in these systems in recent years. While integration and centralisation are appropriate concepts by which to define the changes in the Dutch and Belgian police services and may, with due caution, also be applied to the British situation, they are wholly unsuitable for any analysis of developments in French policing, except in a negative manner (no centralisation of command, no integration of police forces).

I am convinced that if more countries were to be included in the comparison - nations like Germany, Spain and Italy, but also Central European countries like Poland and Hungary - the final result would be more varied still. The explanation for this diversity cannot, of course, be straightforward. It is a consequence of the widely varying historical and political background against which the respective police services have developed, the different ways in which the states to which they belong are organised and the individual problems with which the police forces in different countries are confronted. Any further consideration would, however, fall beyond the scope of this contribution.