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3.4 EUROPEANISATION OR AMERICANISATION OF THE POLICE IN EUROPE?

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Introduction

At this moment a lot of discussion is devoted to the Europeanisation of the police in Europe. And not without reason! In the last ten, fifteen years this process not only has gone faster and faster, but also got more and more substance. However, it would be naive, in my opinion, to observe, to analyse the Europeanisation of the police only on an European level, only in European terms. Because parallel to this pro-

cess of Europeanisation another important process takes place, namely the Americanisation of the police in Europe. That's to say that via several ways the American government and in particular its federal police forces exert a growing influence on policing in Western Europe. Therefore, I want to deal in this speech these two processes within their mutual connection.

The Europeanisation of the police in Western Europe

The actual debate about Europeanisation of the police in Western Europe mainly relates to the cooperation, harmonisation and integration of the police systems concerned to a certain extent. One shouldn't forget, however, that these developments, or, in any case, that discussion only constitutes a new phase in the long evolution of the police in Western Europe or, greatly exaggerated, the European police.

The establishment of European police systems in history

It isn't my intention to depict this very interesting history in a few words. Nevertheless, I wish to ask your attention first of all for the fact that already during the eighteenth century an Europeanisation of the police took place, in that the French police, notably the police of Paris and the gendarmerie, served as models for the reorganisation of the city police and the rural police in Austria, Germany and Belgium. And it goes without saying that this process was greatly enhanced in the course of the French Revolution and the Napoleonic Regime. In most of the countries which were occupied, conquered and successively incorporated in the French Nation and the French Empire not only the more or less decentralised civil police structure, with its **commissaires de police** and **gardes rurales**, but also the centralised military police structure: the **gendarmerie nationale**, was introduced.

Without any exaggeration one could say that at the moment in which Napoleon was at the height of his political power, he directly and indirectly controlled a real European police system from Paris. With much more reason the same can be said about the time of the Second World War. In the course of the Nazi-occupation of Europe for the second time in history a more or less real European police system was established: the SS-police-apparatus, steered from Berlin, from the **Reichssicherheitshauptamt**. And this system was not only in a territorial respect more European than the Napoleonic system, but also from a functional, organisational viewpoint: while Fouché, strictly

spoken, wasn't the head of the **gendarmerie** and controlled the civil police only indirectly and partially, Himmler, the head of the SS and also of the **Reichssicherheitshauptamt**, directly and completely disposed both of the military police forces and of the civil police forces and intelligence services.

It is important to draw your attention to these two well-known historical examples because they show the (horrible) political conditions wherein the establishment of real European police systems took place and demonstrate in this way that it would be a very laborious task to assimilate the different national police systems into one European police system in a more democratic period.

The historical evolution of police cooperation

However, the development of police cooperation before World War II evidently is more related to the actual process of Europeanisation of the police. Since the end of the nineteenth century in any case the police forces in (Western) Europe have developed more and more mutual cooperation on an operational level, notably in the matter of criminal investigation. In 1898 in Italy, in Rome, a secret government conference concerning the fight against violent anarchism took place. This conference has led to a real European network of national police units for the exchange of confidential information about this form of political opposition. And this conference not only furthered the foundation of this sort of operational units, but also advanced the spread of the Bertillonage all over Europe.

Of course, a more well-known date is 1923: the year of the formal establishment of Interpol. This police organisation, too, has exerted great influence on the diffusion of all sorts of technical and tactical devices in the field of criminal investigation. Besides the exchange of criminal information has always been an important task of Interpol. And in spite of its dubious history during the Second World War this international organisation certainly has furthered police cooperation inside Western Europe in a substantial way after this war.

Nevertheless, in the Sixties the established role of Interpol was undermined. From all sides it was put forward that the organisation of Interpol wasn't longer adapted to the actual needs of the police forces, neither in the border regions nor on special places like airports and seaports i.e. Interpol could no longer render the required operational

services. Besides Interpol was blamed for its lack of activity in the matter of crime analysis, multinational criminal investigation and so on. The consequence was that during the Sixties a lot of new territorial and functional forms of police cooperation were built up from scratch. Some good examples are the Cross Channel Conference and the Association of Airport and Seaport Police. However, the most important evolution came up in 1975. Within the framework of the European Political Cooperation was decided at that moment to establish TREVI with a view to improve police cooperation in the matter of the fight against terrorism and violent radicalism. And it didn't end with this. In 1985 the task of TREVI was enlarged to the advancement of police cooperation concerning the containment of international (organised) crime. This means that TREVI - being a government organisation, in contrast to Interpol embedded in the European and national political and official structures - can become the leading police organ in Western Europe, or in any case may function as an important leg up to such an institution. Meanwhile we have to be satisfied with the rival centres for police cooperation within the EC-countries.

The actual pursuit of cooperation, harmonisation and integration

The foregoing remark brings us to the actual pursuit of police cooperation and, in its line, police harmonisation and police integration in Western Europe.

With a view to "Europe 1992" the most important forms -in addition to the TREVI-consultations- of police cooperation which are strived for, can, analytically spoken, be divided in two different categories: multilateral police cooperation and Community police cooperation.

The most important example of multilateral police cooperation is embodied in the Schengen Treaty, notably the Schengen Treaty II that in the beginning of June has been signed by France, Germany and the Benelux-countries: Belgium, The Netherlands and Luxemburg. Evidently its importance lies first of all in the fact that the countries concerned came for instance to terms with respect to the exchange of liaison officers, the regulation of cross-border operations by surveillance units, the introduction of a hot pursuit clause and the foundation of a common data system. But this treaty is that important as well because it, or at least its police and security section, will serve as a model for the organisation of cross-border cooperation among the regular police forces within all the EC-countries. This has become very clear on 14 and

15 June 1990 when the TREVI-ministers, being in session in Dublin, decided upon an action programme for "Europe 1992" wherein the exchange of liaison officers is an important issue.

The most important example of Community police cooperation is the UCLAF: the "Unité de Coordination de la Lutte Anti-Fraude", within the European Commission. Its importance in this context notably can be deduced from its composition: on the one hand officials from the several EC-directorates concerned, on the other hand representatives from the inspectorates within the several member-states which are specifically responsible for the enforcement of EC-regulations. But if the TREVI-ministers, in the wake of the CELAC -the conference of drugs coordinators, established by the European Council- are proved right, in the short term this innovative form of cooperation will be followed by a similar unit in the matter of the regular police, namely an EC drugs intelligence unit.

These far-reaching forms of operational cooperation lead us directly to the question of harmonisation of the police in Western Europe. Indeed, operational cooperation presupposes always some harmony between the cooperating partners. In the foregoing already it was suggested that the European police systems have to some extent not only a common history but also a common deep structure. That's to say that there exists a basis for cooperation. As important, however, is the question if cooperation doesn't further harmonisation. And looking at what happens at this moment in Western Europe one could easily defend a positive, very positive indeed, answer to this question. The most and best marks of this process can be seen on the level of the internal and operational organisation of police forces: equipment of riot police, methods of infiltration, the design of surveillance groups and so on. And once again one ought to refer to the recent Dublin-meeting of the TREVI-ministers. At this meeting indeed was pressed upon the foundation of national drugs intelligence units in all the member states of the European Community!

However, one shouldn't lose sight of the fact that besides this organisational form of harmonisation a juridical form of harmonisation becomes more and more important. Since the Seventies indeed the European Court and the European Commission of Human Rights apply in a more or less systematic way the articles 3, 5, 6 and 8 of the European Convention of Human Rights to the police, or at least the police stage of the penal process. And this means that their jurisprudence is delineating the frame of reference within which police operations must be organi-

sed. Look i.e. at **Melone versus United Kingdom** concerning telephone-tapping and at **Kostowski versus The Netherlands** with respect to informants.

More cooperation, growing harmonisation and then no integration? No, no process in that direction takes place since the proposal of the German Prime Minister to found an European FBI got no positive response. And the much more moderate successive proposal of the German Minister of Interior to establish a European police authority, hasn't provoked any public debate at all. All this confirms the conclusion that in the foregoing was drawn, namely that police integration only can take place in the broader framework of political integration. That's to say that the more the political unification of Europe will progress the more police integration will come to the forefront, and conversely of course!

The Americanisation of the police in Western Europe

Having sketched now the Europeanisation of the police in Western Europe it is time to touch upon its Americanisation. To get a clear picture of this process it is obvious to analyse this process according to the scheme that just was used to get some insight into its Europeanisation and to look above all to transatlantic forms of police cooperation and police harmonisation. Like in the case of Europeanisation the legal assistance treaties will be taken for granted herewith. Not because those treaties are unimportant from a police viewpoint. On the contrary! These treaties guarantee indeed that police collaboration across the North-Atlantic Ocean also in the long run can be successful, at least in penal terms. But they are beyond the scope of this contribution. The influence of the American discussion about team-policing on the innovation of the police forces in Great Britain and The Netherlands, and the fruitful role American police research has played in the evolution of such research in Europe, will be left aside too.

The first time I was confronted with the Americanisation of the police in Europe was when I wrote a book on the François-case in Belgium, that's to say in 1982 -1983. Since that time my interest in the relationship between the American police forces and the European police forces only has increased. On the one hand because of the fact that this relationship had grown too, on the other hand because of the growing interest of American researchers in that topic. Particularly I may refer to the writings of E.N. Edelman, assistant professor at Princeton Univer-

sity, about the role of the United States and its federal police forces in the international enforcement of criminal law. The results of our research amounts to the following.

Above all it is important to notice that since the Sixties the United States have sent their 'police sons' all over the world. At this moment one estimates that about 250 members of the DEA are stationed in about 40 countries, and about 30 members of the FBI in some 10 countries. Moreover there is an unknown amount of investigators within the military forces abroad who engages in more civilian criminal investigation too.

The presence of some part of these transnational cops in Western Europe, however, should not only be studied with respect to its consequences for North-Atlantic police cooperation and police harmonisation. A preliminary question indeed is: what's the reason, the background for this remarkable invasion? The answer to this question is quite simple: the attempt of the successive American administrations since the Nixon administration to involve the European governments in a world-wide war against international (organised) crime, in particular drugs trade (the same reason why European governments, the Dutch included, have stationed police attachés in Asian and South-American countries since the Seventies). This means that the Americanisation of the European police in terms of cooperation and harmonisation radically is based on an Americanisation of the European police policy, as far as such a policy exists. Helping to make a police priority of the war against drugs traders had always been the most fundamental task of the American policemen on European soil. And looking at what is going on in the matter of proactive policing in this part of the world, one can only assess that they have delivered an important contribution to the attainment of this political aim. How many European investigators aren't participating meanwhile in this war? Thousands and thousands of them!

Their participation implies -this goes without saying- cooperation with the representatives of the American police forces, above all, the DEA and the FBI. This cooperation mainly concerns mutual help with the detection of crimes and the arrest of suspects. It covers in this way a whole range of activities. To give only some examples firstly may be made mention of the use European policemen dare make of the information whereof the American forces dispose already, and of their worldwide communications systems. Secondly the Americans have helped their European counterparts by providing money and personnel

for undercover operations. And a third form of help is the training of *European policemen*, in their home country or in the United States, for proactive policing in the field of the fight against drugs crime. Herewith should be observed for the rest that this 'relief action' always has been somewhat tricky. Every militant investigator can give notorious examples of American policemen who manipulated informants against the interest or insights of their European "friends". Sometimes their American counterparts even weren't afraid of acting on its own, without any respect for the sovereignty of the state where they live(d). At such moments evidently there wasn't question of Americanisation of the European police any more but merely of American police in Europe, lawfully or not.

Anyway, the steady growing American - European police cooperation has gone hand in hand with the harmonisation of proactive police methods. To prevent any misunderstanding: the adaptation of European 'police methodology' to the American one. This adaptation relates above all to different forms of covert action which are usual now: short term infiltration, 'buy and bust', controlled delivery and so on. That's to say that not 'everything' has been aped. For example: long term infiltration and 'sell and bust' are not (yet?) accepted in most European countries. The reason why these more penetrating (more offensive) practices are rejected, are more or less clear. First of all the use of the named 'softer' forms of covert policing has caused already such a lot of trouble: police crime, conflicts between the police and the judiciary and so on. Secondly the application of the 'tougher' forms can't be reconciled with the continental notion of provocation (entrapment). And thirdly one is afraid of the ruin of policemen who stay quite a while in the 'underworld'.

However, this partial, methodical harmonisation in some places still has involved a reorganisation of the police service. Around 1970 the Belgian government took the decision to establish the (Board of Criminal Information' (BCI). This decision was based upon the American insights with fighting against organised crime. This fight required, so to speak, the foundation of independant intelligence unit, manned by 'policemen' with a lot of routine but without any judicial competence. The outcome of this 'American' experiment was a disaster for the rest. Around 1980 it turned out that most of the detectives concerned were criminal, corrupt etc. etc. Some years ago the BCI silently has been removed....

Finally I may draw your attention to the fact that the Americans are very much interested too in the Europeanisation of the police. This can not

only be deduced from their lively participation in Interpol but also from the relationships they have with TREVI.

Conclusion

The conclusion of this lecture will be no surprise. The Europeanisation and the Americanisation of the police in Europe are -notwithstanding a lot of difficulties and differences- no antipodal processes. On the contrary, particularly in the matter of investigation the Americanisation not only backs up the growing cooperation among the European police forces but also their harmonisation. The spread of the less dangerous forms of covert policing all over Europe clearly proves this. And perhaps one may predict that to the extent that the political unification of Europe will progress, the Americans will push the integration of the police in (Western) Europe too, i.e. by selling their model of federal *policing*.

The implication of this connection between Europeanisation and Americanisation for the (academic) police research in Europe is that it should be orientated to the relationship between foreign (security) policy and internal security policy, not only in relation to the United States but also within Europe itself. What will be the consequences of the political revolutions in Eastern Europe for policing in Western Europe?