

# The European TREVI Conference in the 1970s: Transgovernmental Policy Coordination in the Area of Internal Security

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Today, home affairs have become a central field of cooperation between the twenty-eight states of the European Union. Important areas of concern are the fight against “organised crime” and terrorism as well as migration, asylum, and border policies. The official beginning of the integration process in this field is generally associated with the Maastricht Treaty signed in 1992, when the so-called “third pillar” on Justice and Home Affairs came into being. However, the origins of informal European policy coordination on these topics lie almost two decades earlier: plans prepared by the German Federal Home Office for a “European Conference on Internal Security” date back to 1972, and following a British initiative in December 1975, Ministers with corresponding responsibilities met for the first time in June 1976.<sup>1</sup> From this point on, the so called TREVI conference was held regularly, though it remained a completely informal body.<sup>2</sup>

This paper analyses how the TREVI conference functioned until the end of the 1970s.<sup>3</sup> The main task of the conference was to provide an organisational framework for the systematic cooperation of police forces and security agencies. During the phase under consideration, an important motivation for TREVI was the new threat of terrorism operating across national boundaries. Another driving force was the hope that the exchange of experiences and knowledge in the areas of police technology and training would produce increased synergy. Furthermore, some states – in particular, West Germany – wanted TREVI to ascertain and to prepare appropriate measures for possibly opening the internal borders of the European Community (EC). Against this background, the conference was distinctly more than just a pragmatic response to pending security problems; it was also important for the further integration of the EC. This is primarily because, at least for some actors, it aimed at enabling

1. For Belgium, the Federal Republic of Germany, France, Italy and the United Kingdom, the Interior Ministers attended the conference, for Denmark and Ireland the Ministers of Justice; for the Netherlands and Luxembourg both Ministers were involved.
2. “TREVI” is probably an acronym for “Terrorisme, Radicalisme, Extrémisme, Violence Internationale”. At the same time, the name points to the Trevi Fountain in Rome, where, in 1975, the European summit decided to create a European conference on internal security. Cf. W. KNELANGEN, *Das Politikfeld innere Sicherheit im Integrationsprozess. Die Entstehung einer europäischen Politik der inneren Sicherheit*, Leske und Budrich, Opladen, 2001, p.91, note 94.
3. This article was written within the context of a larger research project being carried out at the *Institut für Zeitgeschichte München-Berlin* on the history of counterterrorism policies in Western Europe during the 1970s and 1980s. Cf. <http://www.ifz-muenchen.de/forschung/demokratien/projektuebersicht/>, and J. HÜRTER (ed.), *Terrorismusbekämpfung in Westeuropa. Demokratie und Sicherheit in den 1970er und 1980er Jahren*, De Gruyter Oldenbourg, Berlin et al., 2015.

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the free movement of persons within the community and thus at the full accomplishment of the internal market. Furthermore, after the introduction of the European Political Cooperation (EPC) in 1969/70, it presented another precedent for integration within a policy field that was not covered by the treaties of Rome.

The conference was initially marked by considerable impetus, leading to the creation of numerous Working Groups (WGs) and cooperation mechanisms for responsible ministries, police forces, and security agencies. However, by the end of the decade it began to stagnate. This was, among other things, due to the fact that short-term accessible goals had been realised and that differences in the member states' long-term conceptions for cooperation became more and more obvious. It was only in the 1980s and in the face of new challenges that TREVI experienced a fresh upturn, in particular, because of "organised crime" and the planned opening of internal community borders.

The TREVI conference was dominated to a large extent by the work of ministerial bureaucracies and security officials. With a considerable bottom-up dynamic, agenda setting and decision-making processes were shaped by lower ranking officials. This study is therefore based on the concept of "transgovernmental relations" formulated by Robert O. Keohane and Joseph S. Nye. The two political scientists define "the term 'transgovernmental' to refer to sub-units of governments on those occasions when they act relatively autonomously from higher authority in international politics".<sup>4</sup> The central assertion is that these interactions among sub-units of different governments can gain a significant influence on national policies. The main problem addressed in the following is to explain how transgovernmental cooperation developed within TREVI and to what extent these contacts affected national policies.

Keohane and Nye have underlined that the "effects of transgovernmental politics on the efficacy of democratic control may be very serious". This danger is even greater in the area of internal security, where important activities often take place beyond the view of parliamentary bodies as well as the general public. If in such a context officials start to define their roles and responsibilities "partly in relation to their transnational reference group rather than in purely national terms", they might be prone to undermine national accountability mechanisms by placing a higher value on transgovernmentally-developed interests than on national principles and national bodies that were intended to provide oversight.<sup>5</sup>

Questions of accountability and how TREVI functioned have been raised by other authors before.<sup>6</sup> However, until very recently, it has not been possible to formulate a

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4. The term "transnational" on the other hand remains restricted to nongovernmental actors. Cf. R.O. KEOHANE, J.S. NYE, *Transgovernmental Relations and International Organizations*, in: *World Politics*, 1(1974), pp.39-62, here p.41.
5. *Ibid.*, p.44 and 60.
6. Cf. notably J. BENYON et al., *Police Co-operation in Europe: An Investigation*, University of Leicester/Centre for the Study of Public Order, Leicester, 1994<sup>(2)</sup>, p.166; N. WALKER, *The accountability of European police institutions*, in: *European Journal on Criminal Policy and Research*, 1(1993), pp.34-52.

solid answer, because TREVI largely operated in secret and reliable sources were not available. This has changed, at least to a certain degree, during the last years. Historians now have access to an important amount of archival records for the period under consideration.<sup>7</sup> This article is based on documents of the West German, French and British Ministries of the Interior and of Foreign affairs.

The paper sets out with a general overview on the founding and the structure of the TREVI conference. By way of example, it will then analyse in detail the processes of policy coordination in two fields that were particularly urgent during the 1970s, and which remain a central concern today: counterterrorism and the use of data-processing methods by security agencies. The conclusion will formulate an answer to the above-raised question, but will also make some inferences in regard to the problem of the TREVI cooperation's accountability.

## 1. Origins and structure of the early TREVI conference

Initial plans for a “European conference on internal security” were generated by the German Federal Home Office in direct reaction to the Munich hostage crisis during the 1972 Summer Olympics. The Palestinian attack on the Israeli Olympic team had shown abruptly that the internal security of West Germany could no longer be guaranteed solely within the classical framework of domestic policies. International co-operation was needed because terrorists operated increasingly across national boundaries.<sup>8</sup> These plans were first formulated by the Home Office’s public security department. The head of the department then presented them in a letter to his Minister, Hans-Dietrich Genscher (liberal Free Democratic Party), asking him to solicit the Minister of Foreign affairs, Walter Scheel, to propose the outlined cooperation to his EC counterparts.<sup>9</sup> The idea thus originated with the ministerial bureaucracies, but the procedural paths that the latter decided to pursue corresponded with traditional polity concepts: the decision was left to Minister Genscher and the main responsibility for the negotiations with the European partners remained with the Ministry of Foreign affairs.

However, the mid-level position that the ministries of Foreign affairs occupied was one of the main reasons why this first attempt at intensified European cooperation failed. After the German initiative, regular consultations were launched within the framework of the EPC of the EC Foreign offices. The Political Committee charged

7. For recent historical research on the topic cf. E. OBERLOSKAMP, *Die Europäisierung der Terrorismusbekämpfung in den 1970er Jahren. Bundesdeutsche Akteure und Positionen*, in: J. HÜRTER (ed.), op.cit., pp.219-238. The essay also provides further information on works by political and legal scientists that discuss the early TREVI conference.
8. Cf. E. OBERLOSKAMP, *Das Olympia-Attentat 1972. Politische Lernprozesse im Umgang mit dem transnationalen Terrorismus*, in: *Vierteljahrshefte für Zeitgeschichte*, 60(2012), pp.321-352.
9. PA-AA [Political Archive of the Federal Foreign Office], B 21, vol.752, Telex by Smoydzin, 09.09.1972.

three WGs with the investigation of possibilities for intensified counterterrorist co-operation. However, the discussions of these expert groups, which included officials from the ministries of the Interior or Justice and from security forces, were hindered by the fact that the Political Committee – being composed of Foreign ministries' senior officials – was apparently unable to formulate a clear mission. The WGs soon petered out without having brought about any results.<sup>10</sup>

Against this background, the Federal Home Office made a new attempt by searching for direct contact with the appropriate EC ministries. In January 1973, Minister Genscher asked his public security department to prepare a “European conference on internal security”.<sup>11</sup> The new plans outlined a cooperation between the EC ministries with corresponding responsibilities, providing a structure analogous to the EPC. The Foreign offices were to be only supporting actors.<sup>12</sup>

Keohane and Nye have pointed to the fact that in the early 1970s, the broadening of political agendas made it increasingly necessary for bureaucracies of different countries to “deal with each other directly rather than indirectly through Foreign offices”, in order “to cope effectively at acceptable cost with many of the problems that arise”. In their view, the surrender of the Foreign office as a mediation authority generally constitutes a precondition for “officials of what were once considered primarily domestic governments agencies” to enter into direct contact with international counterparts.<sup>13</sup> This shift can thus be viewed as a learning process that permitted the Home Office to proceed more efficiently.

As the convocation of the envisaged conference turned out to be more complicated than foreseen, the Federal Home Office decided to initiate, for a start, a bilateral cooperation with the French Home Office. However, from the German point of view, this was supposed to be only the preliminary stage for a multilateral cooperation. In February 1974, a meeting between the two home offices concluded with an agreement for closer coordination between senior officials and for regular expert meetings.<sup>14</sup>

It was finally only by the end of 1975 that the envisaged conference reappeared on the agenda. During the December 1975 summit of Heads of state and government, the Prime Minister of the newly joined EC member Great Britain, Harold Wilson, proposed the British Home Office's project of a closer European coordination in the area of internal security to his counterparts. The British had pragmatic motivations: they wanted to more effectively fight against criminals operating across borders, not

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10. BArch [Bundesarchiv Koblenz], B 106/106879, Notes by Merk, 25.04 and 12.06.1973; PA-AA, B 83, vol.980, Strothmann to Genscher, 14.01.1974.
11. PA-AA, Zwischenarchiv, vol.108.870, Merk to Genscher, 10.08.1973.
12. BArch B 106/106879, Draft by Merk, 25.04.1973.
13. For all quotations, see R.O. KEOHANE, J.S. NYE, op.cit., p.42.
14. For concrete arrangements made within this framework, see E. OBERLOSKAMP, *Terrorismusbekämpfung und Immigrationskontrolle. Zur deutsch-französischen Zusammenarbeit der Innenministerien in den 1970er Jahren*, in: B. GOTTO et al. (eds), *Nach “Achtundsechzig”. Krisen und Krisenbewusstsein in Deutschland und Frankreich in den 1970er Jahren*, Oldenbourg, München, 2013, pp.161-175.

least, against North Irish terrorism.<sup>15</sup> They also hoped for synergy in technical fields that would lower costs and increase the know-how of all participating states.<sup>16</sup> Moreover, they intended to demonstrate “a positive European commitment” by launching a pioneering initiative.<sup>17</sup> The plan met general agreement, and the European Council decided to invite the competent Ministers to discuss

“matters arising in the field of their responsibilities for maintaining public order, such as the development of technological aids in support of police operations and measures for countering terrorism (including perhaps the hi-jacking of aircraft)”.<sup>18</sup>

The task was formulated in very general terms, while the decision regarding appropriate measures was left to the ministerial level.

After that, intensive preparations for the planned conference took place on the senior level. During these preparations, the decisive actors were the Ministries of the Interior/of Justice, while the Foreign offices only played a subordinate role by providing channels of communication – namely the COREU network of the EC Foreign ministries – and by providing supplementary information on the European partners.<sup>19</sup> Within the responsible ministries, it was the senior officials and their subordinate officials that assumed the responsibility for prearrangements. The negotiations were dominated by the German and British delegations, which had both developed their own ideas on the planned cooperation, while the other ministries played a far less active role. The German Federal Home Office was a decisive actor, but it could not achieve general acceptance of several important goals. In particular, the other delegations refused to give a clear commitment to extending cooperation on all fields of internal security. They were also rather reluctant with regard to the German ambitions of basing the cooperation on official interstate agreements, preferring informal and flexible ways of working together.<sup>20</sup>

The ministerial level did not come into play until the first conference of the TREVI Ministers in June 1976. During this meeting, the draft resolution prepared by the senior officials was adopted without significant amendments. The agreed-upon text was kept to rather general terms. It stated that a systematic European exchange of information and experiences between ministries and security agencies was to be initiated in the fields of counterterrorism and police technology, equipment, and training. Several aspects were left open in the Minister’s resolution – especially in regard to questions of whether the conference was to become a permanent body of cooperation

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15. BNA [British National Archives], FCO 30/2592, Brief for the European Council, 26.11.1975.
16. BNA, FCO 30/3161, Note by the British government, 09.02.1976.
17. Quotation in: BNA, FCO 30/3421, Note by Fretwell, 30.05.1977.
18. BNA, PREM 16/399 [Record of discussion], [not dated].
19. COREU was “a telegraphic cypher communication system, run by the Presidency of the Community, for the direct transmission of messages between the Foreign Ministry of the Presidency and the Foreign Ministries of the other Member States”. Cf. AN [Archives nationales, France], Ministère de l’Intérieur (French Home Office), 19960183/29, Working paper, [not dated].
20. PA-AA, Zwischenarchiv, vol. 108.887 and vol.108.890; BNA, FCO 30/3161 and 30/3162; AN, Ministère de l’Intérieur, 19960183/28.

and whether the field of activity should comprise only terrorism-related topics or general internal security problems.<sup>21</sup>

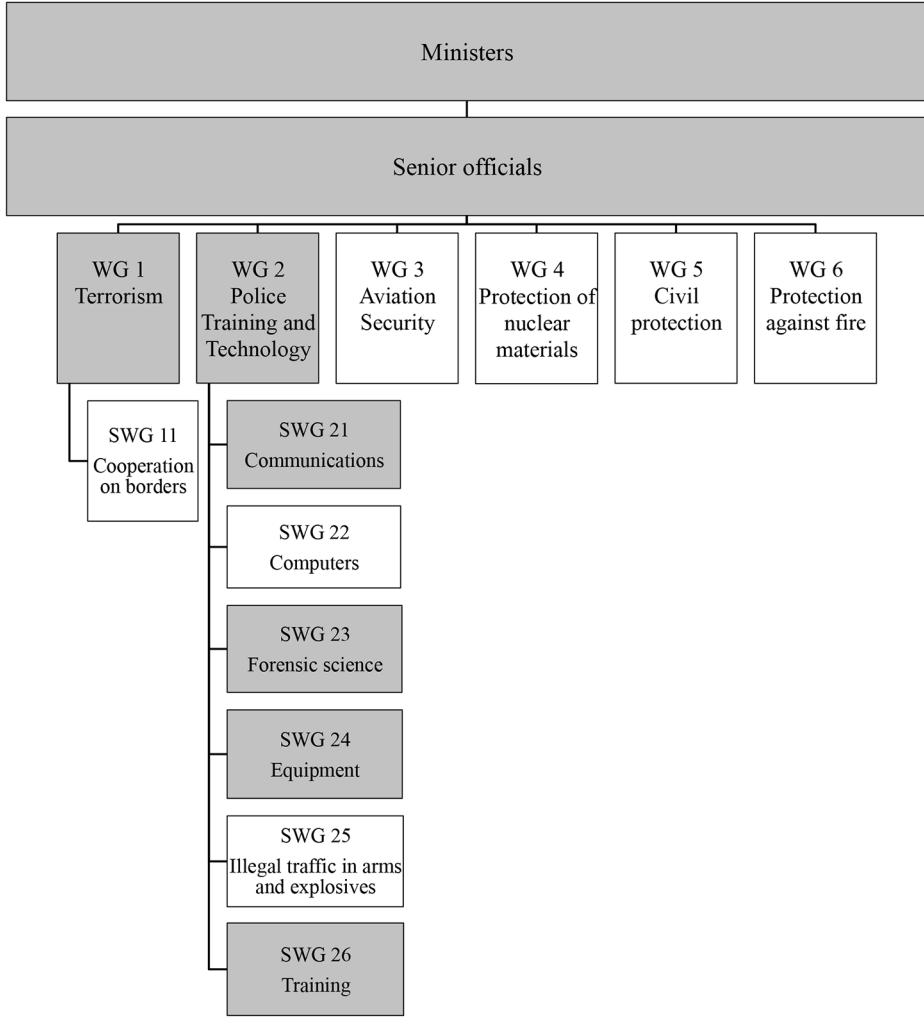
Concerning the organisation of the conference, it was decided that there should be three levels (see figure below). The Ministers were to make political decisions and to define general tasks for subordinate working levels. Senior officials from the national ministries were responsible for the preparation of the ministerial meetings and for the implementation of the defined tasks. They had to appoint and coordinate WGs composed of experts from ministries and security agencies. If deemed necessary, these WGs could, in turn, create and supervise Sub-Working Groups (SWGs). In the long run, the most important and long-lasting expert groups would be the WG 1 on terrorism and the WG 2 on police technology, equipment, and training. The other WGs as well as some of the SWGs ceased to exist after only a few years or even months of activity.<sup>22</sup> The decision-making system provided that the lowest levels had to write reports and submit them to the next senior-most level. These reports – generally supplemented by a summarising draft resolution – were then passed on to the next highest level. Formally, it was the ministerial level that made all final decisions. In practice however, it would turn out that the higher-ranking levels virtually always accepted the working level's propositions.

On the whole, it can be concluded that, formally, the actors remained committed to a concept providing rather for top-down procedures during the founding period of the TREVI conference: although the first ideas for TREVI were generated by officials from the responsible ministries, these actors did not at first take the initiative to enter into direct contact with their counterparts in other EC ministries until they were told to do so. The decision that called the cooperation into existence was taken at the highest possible political level, that is, by the heads of state and government. The organisation of the conference gave the primary power of decision making to the Ministers, while ministerial bureaucracies retained the task of performing and implementing these decisions. It must furthermore be underlined that the interests of the two states that were the main driving forces within TREVI went beyond purely technical aspects of internal security. Both West Germany and the United Kingdom were also driven by important political concerns. In the case of West Germany, this was the envisaged opening of the European Community's internal borders, and in the case

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21. BArch, B 106/106774, Resolution [by the EC-Ministers responsible for internal security from 29 June 1976], Attachment 1 to: Note by Bracht, 02.07.1976.
22. By the end of 1978, the structure of TREVI was radically condensed. This seemed necessary because it had turned out that the fields of activity of some WGs strongly overlapped with the work of either other TREVI WGs or of other international bodies. Also, some TREVI WGs/SWGs had performed the tasks given to them and further meetings were not considered necessary. Therefore it was decided that the WG 1 would additionally assume the functions of the WGs 3 and 4. The WG 2 was in essence maintained. The subject area of the WG 5 was no longer pursued within the TREVI-framework; the WG 6 was officially confirmed, but in fact did not subsequently carry out any significant activities. Cf. AN, Ministère de l'Intérieur, 19960183/28, Note by the French Ministère de l'Intérieur, [not dated]; AN, Ministère de l'Intérieur, 19960183/30, Restructuration des groupes TREVI, [November 1978].

of the new EC member Great Britain, it was the ambition to raise its profile with an original initiative.



The structure of the TREVI cooperation in the 1970s (own presentation). Highlighted are the bodies that continued to exist after a restructuring that took place in 1978/79. LWG: Working Group; SWG: Sub-Working Group

However, already during this early period, several aspects prefigured a trend toward transgovernmental dynamics. This is substantiated by the fact that the Foreign offices were pushed aside already at an early stage as the traditional main actors in international relations. Furthermore, all decisions taken at the top level – by the European

Heads of state and government in December 1975 as well as by the Ministers in June 1976 – remained remarkably vague. An important reason for this lack of clarity was that the topics in question were considered to be particularly complex and technical, so that only experts were thought to have the ability to handle them properly. Against this background, already during the preparations for TREVI, the course of events reveals a considerable transgovernmental momentum within the bureaucracies that autonomously formulated and pursued their goals and plans for the conference.

## 2. Policy coordination in the area of counter-terrorism

The WG 1 on counterterrorism was considered to be one of the most important and successful expert groups.<sup>23</sup> The main tasks given to it by senior officials arose directly from two central points formulated in the Ministers' resolution from June 1976. First, the experts were asked to initiate an exchange of information and experiences gained in the course of passed terrorist incidents. Second, they were to find possibilities enabling the national security agencies to exchange information on current terrorist activities as well as enabling them to cooperate on an operational level in particular situations of terrorist threat.<sup>24</sup>

The WG 1 comprised officials from the TREVI ministries, from police forces, and from security agencies. The delegations were to a large extent dominated by the criminal investigation departments and the domestic intelligence services of the nine EC states: security officials headed the majority of delegations, and on the whole clearly outnumbered the ministerial officials.<sup>25</sup> In order to comply with the first task given to them, the experts in the WG 1 decided in their first meeting in October 1976 to initiate a systematic exchange of experience reports on passed terrorist offences. From this point on, they dedicated themselves regularly to the analysis of crisis management during particular terrorist incidents. Topics that were discussed included the West German embassy occupation in Stockholm by the Red Army Faction in 1975, the London Balcombe Street siege by members of the Provisional Irish Republican Army in 1975, the 1977 Dutch train and school hostage crisis provoked by South-Moluccan terrorists, the kidnapping and murder of Hans-Martin Schleyer, President of the West German Employers' Association, as well as the "Landshut" plane hijacking by the Red Army Faction in 1977, and the Iranian embassy siege in London by Arab terrorists in 1980.<sup>26</sup>

23. Cf. e.g. the assessments in: BNA, FCO 30/3422, [Brief by Nagler], [May 1977]; BArch, B 106/78834, Note by the Bundesministerium des Innern (hereafter: BMI/German Federal Home Office), 22.04.1980.

24. AN, Ministère de l'Intérieur, 19960183/28, Information note by the BMI, Attachment to: Information note by the French Ministère de l'Intérieur, [not dated, after the 21.06.1985].

25. Cf. e.g. the participant list in: AN, Ministère de l'Intérieur, 19960183/29, [May 1978].

26. BArch, B 106/106774, Minutes by Schöneich, 20.10.1976; BArch, B 106/78834, 106774 and 106775; BNA, FCO 30/3423.

On the basis of these reports, the officials tried to come to generally applicable conclusions that were recorded in summarising surveys. Their aim was to provide the security agencies with empirically justified guidelines for future cases. These conclusions considered topics like the cooperation with media outlets during hostage crises, effective coordination of decision-making processes, and negotiating strategies with kidnappers.<sup>27</sup> It is difficult to judge reliably from the consulted sources to what extent these learning processes actually influenced the operational practices of the nine EC states' police forces and security agencies. It is however very likely that they did have an impact. They can, for example, be seen as one of the factors that contributed to West European states' turn to "intransigence" in the face of terrorist blackmail in the mid-1970s.<sup>28</sup>

The second task given to the WG 1 was more complex. There already existed informal information exchanges between the West European police agencies and intelligence services. Yet the files of the West German Home Office reveal that the ministerial level did not have very precise ideas of how and to what extent these exchanges took place. Experiences like the 1972 Munich hostage crisis seemed to suggest that current rates of exchange were insufficient. A general communication problem stemmed from the fact that the architecture of the police and security agencies was very different from state to state, so that it was difficult to know for officials from one country, which body or person of another country to contact with a particular request.<sup>29</sup> Therefore the WG 1 proposed to create "Liaison Offices" in every state which were supposed to centralise the flow of information and to coordinate exchanges with European partners. The WG 1's conclusions that were adopted by senior officials in April 1977 and by the Ministers in May 1977 envisaged a scope of information exchange that was as large as possible. A preparatory document formulated within the WG 1 reveals what was meant by this vague formulation: the European partners were asked to forward without special request all intelligence and police information on known or assumed terrorists (even if there was no concrete threat), on existing terrorist threats, and, in the case of actual terrorist attacks, on all relevant events as well as information on what measures had been taken.<sup>30</sup>

By the spring of 1977, all nine EC member states had founded Liaison Offices. In West Germany, the German Federal Home Office's public security department officially established such a bureau in March 1977. The role of the chief executive level in this process is difficult to determine on the basis of available sources. However, no evidence was found that would suggest that the Minister or his State secre-

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27. BArch, B 106/106775, TREV1-document 05014, 26.02.1977; AN, Ministère de l'Intérieur, 19960183/29, Draft by Angel for the WG 1 report to the Senior Officials, [first semester 1977]; BArch, B 106/106774, Resumee des Stockholm-Symposiums vom 9. November 1976, [not dated].

28. Such is the main thesis in M. DAHLKE, *Demokratischer Staat und transnationaler Terrorismus. Drei Wege zur Unnachgiebigkeit in Westeuropa 1972-1975*, Oldenbourg, München, 2011, pp.427-434.

29. Cf. J. BENYON et. al., op.cit., pp.65-118.

30. AN, Ministère de l'Intérieur, 19960183/29, Conférence des Ministres de l'Intérieur, 11.05.1977; Draft by Angel, [first semester 1977].

taries (Staatssekretäre) followed the process very closely or approved of it directly. After all the EC states had created according entities, the system of the Liaison Offices began operations on May 2, 1977.<sup>31</sup> It was confirmed in retrospect by the Ministers during their second meeting on May 31, 1977.<sup>32</sup>

Even though some of the Liaison Offices put together mixed teams of police and intelligence officials, direction and material management were in all cases assumed by the domestic intelligence service.<sup>33</sup> On the whole, the offices were especially beneficial for the intelligence services that now gained additional comprehensive access to key resource information. In countries with a strict separation of intelligence and police, the offices were far less advantageous for the criminal investigation departments, which remained dependant on the intelligence services for information from European partners.<sup>34</sup>

For some EC-member states the formation of a European information network aiming at an extensive exchange of personal and factual data seemed legally problematic because it lacked the establishment of legal basis.<sup>35</sup> In Germany, for example, the police and security agencies' work was generally based on comprehensive legal provisions, and new practices – like a significant enhancement in cross-border information exchange – were considered to require legalisation. This is why the first ministerial resolution from June 1976 requested that experts make propositions in order to overcome potential obstacles created by domestic laws for the exchange of information.<sup>36</sup> In other states however, such as France, the legal culture did not call for a far-reaching legal regulation of the internal security forces' work.<sup>37</sup> As there was no widespread interest among all EC-states in changing the situation, the Liaison Offices continued their work and the search for a solution to these legal problems was deferred. Apart from the differences in national legal cultures, it was also the cooperation's transgovernmental character that fostered the tendency to avoid a creation of legal basis for the information exchange. The main actors in the decision-making

31. BArch, B 106/106772, Note by Schneider, July 1978; BArch, B 106/106775, Report to TREVI Working Group I by Schmidt, 12.04.1978.
32. Cf. the Senior Officials' report adopted by the Ministers on their meeting on 31.05.1977 in London, AN, Ministère de l'Intérieur, 19960183/29, TREVI-document (77)1, 11.05.1977.
33. AN, Ministère de l'Intérieur, 19960183/29, Note by Lacarrière, 05.04.1977; BArch, B 106/106776, Report by the Heads of Liaison Offices to WG 1, 12.04.1978.
34. It must be noted that in practice the Liaison Offices never completely fulfilled their intended function during the 1970s because in some states there existed internal cooperation problems between police and secret service. Cf. E. OBERLOSKAMP, *Die Europäisierung der Terrorismusbekämpfung* ..., op.cit. It is probably for this reason that during the 1980s the Liaison Offices were transferred to the central authorities of the EC states' Criminal Investigation Departments. Cf. W. KNELANGEN, op.cit., p.93.
35. Such is the judgment from a German point of view in R. WEHNER, *Europäische Zusammenarbeit bei der polizeilichen Terrorismusbekämpfung aus rechtlicher Sicht. Aufgezeigt am Beispiel der Bundesrepublik Deutschland*, Nomos, Baden-Baden, 1993, p.241.
36. BArch, B 106/106774, Note by Bracht, 02.07.1976.
37. Cf. H. ADEN, *Polizeipolitik in Europa. Eine interdisziplinäre Studie über die Polizeiarbeit in Europa am Beispiel Deutschlands, Frankreichs und der Niederlande*, Westdeutscher Verlag, Opladen, Wiesbaden, 1998, pp.244-251.

process were ministerial and security officials who proceeded beyond traditional paths of international politics and whose interests were centred rather around professional efficiency than around legal or political considerations.

Besides the organisation of information exchange, the WG 1 had also the task of examining options for operational cooperation between European security forces in particular situations of terrorist threat. This task was most delicate because an eventual deployment of one state's police forces in other EC states would amount to a direct interference with national sovereignty. The smaller EC states in particular expressed reservations about police officials taking action on foreign territory.<sup>38</sup> Against this background, the WG 1 was not in a position to reach any wide-ranging agreements. Its conclusions to the senior officials appeared rather in the character of recommendations that would have to be implemented on another level. In its first report to the senior officials from November 1976, the WG stated three principles that were considered to facilitate operational cooperation between European police and security agencies:

1. the possibility to request police and intelligence officials from a partner state in the case of terrorist incidents, in order to assist one's own authorities;
2. the conclusion of bilateral agreements on cross-border surveillance of suspected terrorists and the creation of common police radio frequencies in border regions;
3. the option to send officials to another member state in order to gather information of operational value (e.g. inspection of records or participation in interrogations).<sup>39</sup>

All three propositions were endorsed first by the senior officials and then, in May 1977, by the Ministers.<sup>40</sup> This, however, did not amount to any legal commitment. The latter could have been reached only through the conclusion of international treaties. Nonetheless, it seems likely that the formulation of intentions on the administrative and political level did have a certain impact on the practices of security forces, at least concerning the first principle stated by the experts: an increasing number of joint counterterrorist operations can be observed during the second half of the 1970s, where security agents were delegated in order to help European partners.<sup>41</sup> Concerning the advised conclusion of formal agreements on cross-border

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38. BArch, B 106/106774, Minutes of the first meeting of the EC-WG "terrorism" by Schöneich, 20.10.1976. The West-German goals are summarised in: *ibid.*, Draft memorandum for the drafting committee's meeting on 18/19.03.1976, [not dated].

39. *Ibid.*, WG 1's conclusions for the Senior Officials, 08/09.11.1976.

40. Cf. the Senior Officials' report adopted by the ministers in their meeting on 31.05.1977 in London, AN, Ministère de l'Intérieur, 19960183/29, TREVI-document (77)1, 11.05.1977.

41. For example, specialists of the British Army's Special Air Service twice provided stun grenades and security agents who knew how to use them during the 1977 Dutch train hostage crisis and during the liberation of the hijacked "Landshut" plane in Mogadishu in October 1977. During the 1978 Aldo Moro kidnapping, German and British security agents were sent to Rome for expert assistance. Cf. BNA, FCO 30/3423, Briefing material for the meeting of Senior Officials, [November 1977]; T. HOF, *Staat und Terrorismus in Italien 1969-1982*, Oldenbourg, München, 2011, pp.208-223 and 271 f.

surveillance, however, it was only with the 1990 Schengen Convention that a multi-lateral treaty legally specified certain principles.<sup>42</sup>

In sum, the WG 1 showed a considerable tendency to act independently from higher authority. Yet, the vagueness of the missions formulated for the WG 1 as well as the endorsement, in hindsight, of the experts' measures through senior officials and Ministers indicate that the leading executives apparently not only allowed, but wanted their bureaucracies to maintain this form of transgovernmental relations. In the area of information exchange, the experts' measures were particularly extensive. The bureaucracies decided autonomously for the creation of Liaison Offices, established far-reaching working rules for them, and implemented the network of Liaison Offices without even waiting for official confirmation from the ministerial level. With their resolution from May 1977, the Ministers approved not only the already existing Liaison Office network, but also its lack of legal basis.

Several factors ensured that the topic of information exchange would be left predominantly to experts rather than at the level of political decision making. First, there is a long European tradition of informality in this area of cooperation, going back as far as the nineteenth century.<sup>43</sup> Second, the problem of a deficient legal basis seems less dramatic than in areas where sovereign rights are directly at stake (as was the case with the question of operational cooperation) – especially since the legal implications of the state's dealing with information were far less evident at that moment when European states were just beginning to explore the possibilities of electronic data processing (EDP).<sup>44</sup> Finally, a third important factor that encouraged actions independent of political oversight was the leading role of the intelligence services in the establishment of the Liaison Offices.

### 3. Policy coordination in the field of EDP methods used by security agencies

In a short-term perspective, the significance of the SWG 22 on computers seems less evident than in the case of the WG 1, because it only existed for two and a half years, from the autumn of 1976 until the spring of 1979, and the scope of its resolutions was rather limited. However, the SWG 22 was important beyond its immediate short-term results because it set an agenda for future developments. Its experts discussed and

42. Cf. W. KNELANGEN, op.cit., pp.118 f.

43. Cf. N. WALKER, op.cit., p.37.

44. Cf. E. OBERLOSKAMP, *Auf dem Weg in den Überwachungsstaat? Elektronische Datenverarbeitung, Terrorismusbekämpfung und die Anfänge des Bundesdeutschen Datenschutzes in den 1970er Jahren*, in: C. RAUH, D. SCHUMANN (eds), *Ausnahmezustände. Entgrenzungen und Regulierungen in Europa während des Kalten Krieges*, Wallstein-Verlag, Göttingen, 2014, pp.156-174; L. FROHMAN, *Datenschutz, the Defense of Law, and the Debate over Precautionary Sureillance: The Reform of Police Law and the Changing Parameters of State Action in West Germany*, in: *German Studies Review*, 38(2015), pp.307-327.

prefigured possibilities for computer-based cooperation, many of which would be realised in later years.

Since the 1960s, there had been attempts in most European states to make EDP methods viable for the work of police and intelligence agencies. A pioneer in Europe was West Germany, where, in the 1960s, cybernetic planning methods had become important to the state's activities in many different fields.<sup>45</sup> Accordingly, the West German Home Office formulated already in 1974 far-reaching goals that aimed at the creation of a European data network of police agencies. The German delegation had tried to introduce these ideas into the preparatory negotiations for the first conference of Ministers. Yet the other EC states apparently attached less importance to the issue. Either way, no concrete reference to EDP methods can be found in the final wording of the Ministers' resolution from June 1976. At the most, the topic can be associated with the general claims for an exchange of "information" and "technical experience".<sup>46</sup>

However, the experts within the WG 2 on police technology, equipment, and training apparently considered the problem of European data exchange to be particularly relevant. After having gained a general overview on the EDP systems and working methods being applied in the different EC states, the WG 2 decided during its second meeting in November 1976 to charge a SWG with the exploration of technical possibilities that might permit a secure exchange of computerised data between European police agencies. The task given to the SWG was hereby restricted to data on objects, while data on persons was explicitly excluded.<sup>47</sup> The delegations in the SWG 22 were staffed with ministerial and security officials with a special technical expertise in the field of computers. All participating ministries obviously attached a particular importance to the SWG 22. The French chairmanship noted in the spring of 1978 that its delegations were exceptionally large and that there were never any absences; the discussions took place in an excellent climate and all decisions were made unanimously.<sup>48</sup>

To begin with, the SWG 22 spent a considerable amount of time on obtaining an overview of the existing or projected EDP systems in the different member states. This task was rather complex because the state of progress of the police computer equipment and working methods varied significantly from one EC state to another. Furthermore, the systems existing in the different member states did not have identical structures. For example, by January 1978 only four national police agencies main-

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45. Cf. most recently E. SEEFRIED, *Zukünfte. Aufstieg und Krise der Zukunftsforschung 1945-1980*, De Gruyter Oldenbourg, Berlin/Boston, 2015, pp.411-489.
46. PA-AA, Zwischenarchiv, vol.116.192, Vorschläge zur Verbesserung der internationalen Zusammenarbeit auf dem Gebiet der Verbrechensbekämpfung; vol.108.890, Draft memorandum for the meeting on 18/19.03.1976; TREVI-Ministers' Resolution from 29.06.1976.
47. AN, Ministère de l'Intérieur, 19960183/28, Note by the French Ministère de l'Intérieur, 20.10.1976; Questionnaire groupe de travail rom. 2, [not dated]; and Note by the French Ministère de l'Intérieur, [November 1976].
48. AN, Ministère de l'Intérieur, 19960183/29, Information note by the French Ministère de l'Intérieur, 12.03.1978.

tained databases for the tracing of stolen objects. Against this background it was very difficult to determine in which fields exactly a data exchange might take place. The delegations finally agreed that to start with, data exchanges were desirable for enumerable objects, namely vehicles, banknotes, arms and identification documents.<sup>49</sup>

The experts defined different technical options for exchanging electronic police data. They hereby came to the conclusion that the creation of a “system of terminals linked by telex” was clearly to be favoured – not only because it had already proven itself in practical use, but also because it seemed to be “the easiest for putting into service, the cheapest and the most suitable to the needs”.<sup>50</sup> The officials also agreed that the theoretically optimal solution would be to create a common data-processing centre for the police agencies of all EC member states. Yet this appeared to be not achievable in the short- or medium-term because some EC police agencies still only very scarcely reverted to EDP methods and because of the expected high costs. The SWG 22 concluded that EC member states should now come to bilateral agreements on the basis of its recommendations.

With a view to a possible future intensification of data exchange, the experts also advised that the type of data stored at the national level and the applied data-processing procedures should be standardised between all EC member states. In particular, those states that were still in the process of building up a national computer system were asked to ensure compatibility with their EC partners’ EDP systems. The officials furthermore recommended that common norms should be elaborated in order to ensure data safety.

Although the official task given to the SWG 22 explicitly excluded all questions linked to exchanges of personal data, discussions on this topic repeatedly arose. The experts agreed that the restriction to data on objects substantially limited the effectiveness of the SWG. The computer specialists in the SWG 22 were apprehensive about possible problems in terms of privacy protection, but in view of their professional background, they felt incapable of assessing them appropriately. The question was therefore handed up the chain of command to more senior levels. Following a German initiative, it was discussed in a plenary session of the WG 2 in May 1978. Its conclusion read that there definitely were legal impediments to an EC-wide exchange of personal data, because the legal situation in all nine member states took into account the protection of privacy. The senior officials therefore decided in July 1978 to call the Ministers’ attention to these problems and ask them for a decision.<sup>51</sup> However, when the Ministers met in November 1978, they could not find a

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49. Ibid., Report by Guénon, [January 1978].
50. Ibid., Maxted to Guénon, November 1978; Report by Guénon, [not dated, after the 28.4.1978]. In the 1970s, teleprinters already worked with electronic microprocessors and could be connected to computers for the purpose of electronic data transmission. Cf. A.A. HURDEMAN, *The worldwide history of telecommunications*, Wiley-Interscience, Hoboken, N.J., 2003, pp.511 f.
51. AN, Ministère de l’Intérieur, 19960183/28, Information note by the BMI, Attachment to: Information note by the French Ministère de l’Intérieur, [not dated, after the 21.06.1985]; 19960183/29, Minutes by Vanier and Esmiol, [May 1978]; Report by Guénon, [January 1978]; TREV DOCUMENT WG-2(78)1, 21.05.1978.

common position. In the end, the adopted resolution did not mention the question of an eventual personal data exchange.<sup>52</sup>

Unlike the insufficient legal basis for information exchange in the field of counterterrorism, the legal implications of a computerised data exchange on persons were thus taken seriously by actors on all levels. The question was handed from the lowest level of computer experts all the way up to the Ministers because it was believed that a political decision was required. The Ministers could not take resolutions that went against existing national privacy laws, so they finally dealt with the problem by avoiding it. The margins for informal practices were also restricted because there was a certain degree of public sensitivity: in the second half of the 1970s, the public sphere became increasingly aware of the police and security agencies' use of EDP methods.<sup>53</sup> However, internal documents of those ministries that were striving for the creation of more comprehensive data networks – e.g. the West German and British Home Offices – reveal that here, data exchange on enumerable objects was considered as a first step, providing the technical basis for a later expansion of the network that would also include personal data.<sup>54</sup>

In the spring of 1979, the SWG 22 decided that for the time being it would not carry out any more meetings because further progress was now to be realised on a bilateral basis and on the grounds of formal agreements. Meanwhile, in an effort to keep members up to date on the late developments, the French presidency was asked to continue recording any further progress that was reached in this field.<sup>55</sup>

On the whole, it can be concluded that the creation and the activities of the SWG 22 do reveal important transgovernmental dynamics. The SWG was established without being explicitly mentioned in the 1976 ministers' resolution, and it turned out to be an exceptionally large SWG to which all delegations accorded particular importance. Also, the experts' assessments implied claims for a significant expansion of the initially envisaged scope of cooperation. In the case of the SWG 22, the impact of transgovernmental policy coordination on national policies was particularly high. It is very likely that its recommendations for a standardisation of data-processing procedures in all EC states did have an influence, with harmonisation serving as the precondition for the creation of central databases on the European level, subsequently put into place since the beginning of the 1990s with the creation of Europol and the Schengen Information System. It can thus be assumed that the SWG 22 did shape the

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52. PA-AA, Zwischenarchiv, vol.122.711, Proposed resolution “as adopted” [for the ministerial TREVI-meeting on 30.11.1978].

53. Cf. for the West-German case, where the public awareness was probably particularly high: E. OBERLOSKAMP, *Auf dem Weg in den Überwachungsstaat?* ..., op.cit. However, the topic was very present also in the other EC-member states. Cf. AN, Ministère de l'Intérieur, 19960183/30, Information note by Treyssac, 13.07.1978; 19960183/29, Minutes by Vanier and Esmiol, [May 1978].

54. BArch, B 106/106776, Information note by Lenz, 04.09.1978; BNA, FCO 30/3775, Briefing for meeting of Ministers, [November 1978].

55. AN, Ministère de l'Intérieur, 19960183/30, Compte rendu de la réunion du groupe de travail n° II tenue à Paris, le 16 mai 1979, [not dated].

establishment and development of national computer systems, even without formal resolutions from the ministerial level.

## Conclusion

The TREVI conference developed within the general European integration context of the 1970s. For European home affairs – just like for a number of other policy fields – the 1970s turned out to be a period of further integration that would find its formal acknowledgement in later years.<sup>56</sup> And just like in other policy fields, the deepening of the European cooperation was also a response to globalisation – In this case, the globalisation of crime and terrorism.<sup>57</sup> Not only concerning its intergovernmental structure, but also its flexible and pragmatic character, the conference was substantially orientated toward the model of the EPC. Unlike the EPC, however, TREVI worked largely in secret and endeavoured to avoid even the slightest contact with EC-institutions. The conference's rather technical field of activity thereby fostered a general tendency toward transgovernmental cooperation among ministerial bureaucracies and security experts.

Yet transgovernmental cooperation within TREVI emerged above all because this was what was intended by the involved ministries' executive levels. The conference relied on the idea of expertise, and specialised officials were thought to be in the best position to solve pending security problems. This attitude was reinforced by the fact that the threat of terrorism seemed to reach crisis proportions during the second half of the 1970s. This is why the Ministers' instructions remained very general, and why the Ministers were mostly willing to endorse what their bureaucracies considered necessary. As a result, the involved officials did, at least in certain fields, gain significant impact on national policies. In the area of counterterrorism, this is especially the case for the information exchange of police and intelligence agencies through Liaison Offices. TREVI did also lead to an increasing amount of common European counterterrorist operations. Concerning EDP methods, the cooperation most probably affected the building of the national police agencies' EDP systems.

In terms of democratic accountability, this bottom-up dynamic within the government apparatus was rather problematic.<sup>58</sup> As the majority of delegations did not want TREVI to rely on a treaty basis in international law, it had no mechanisms for corporate accountability. Also, particular agreements like the enhanced information exchange of police and intelligence agencies did not receive the statutory underpinning that would have been necessary. The problem was worsened by the fact that the

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56. Cf. F. KNIPPING, M. SCHÖNWALD (eds), *Aufbruch zum Europa der zweiten Generation. Die europäische Einigung 1969-1984*, Wissenschaftlicher Verlag, Trier, 2004.

57. Cf. C. HIEPEL (ed.), *Europe in a Globalising World. Global Challenges and European Responses in the “long” 1970s*, Nomos, Baden-Baden, 2014.

58. For the concept of police accountability cf. N. WALKER, op.cit., pp.35-37.

public accountability mechanisms of TREVI were particularly weak, given that the WGs largely operated in secret. At the national level, it was the individual Ministers that could have been subject to political oversight through parliaments and a critical public – but, as John Benyon et al. have pointed out, this often appeared “to have meant very little oversight at all”.<sup>59</sup>

The fact that the founding period of the TREVI conference was marked by considerable deficits in terms of democracy and accountability is important beyond its contemporary contexts. Decisions that were made in the circumstances of the 1970s would go on to shape later developments in the area of European home affairs.<sup>60</sup> It was only with the Lisbon Treaty, which went into effect in 2009, that internal security matters became subject to the supranational community method and that possibilities for parliamentary oversight were improved.<sup>61</sup> However, in the light of the ongoing expansion of European home affairs, accountability within this policy area remains a fundamental challenge for the European democracies.

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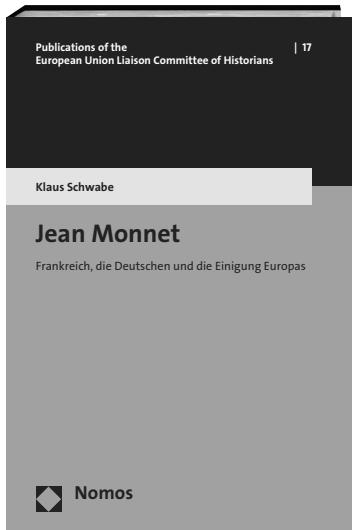
59. J. BENYON et al., op.cit., p.168.

60. Cf. for an analysis of this problem in the early 1990s: N. WALKER, op.cit. For an overview on European justice and home affairs since the 1980s, cf. W. KNELANGEN, op.cit., pp.139-331; V. MITSILEGAS et al., *The European Union and Internal Security. Guardian of the People?*, Palgrave Macmillan, Basingstoke et al., 2003.

61. Cf. J. MONAR, *Die Vertragsreformen von Lissabon in den Bereichen Inneres und Justiz: verstärkte Handlungsfähigkeit, Kontrolle und Differenzierung*, in: *Integration*, 32(2009), pp.379-388.

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