



Hertie School of Governance - working papers, No. 28, April 2008

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Internationalizing the Monopoly Force**

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Policing Among Nations. Internationalizing the Monopoly of Force

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International cooperation in the field of policing is linked to the definitional core of the state, the monopoly of the legitimate use of force (Max Weber). Whereas international cooperation in other fields has been widely analyzed, there is no systematic measure of the development and intensity of international police cooperation over time. The paper disaggregates the monopoly of force into three components (legitimation, methods, and authorization) and analyzes how international police cooperation in Western Europe has developed since the 1960s and how strongly it impinges upon state sovereignty. Whereas in the 1960s, most international institutions in the field were only weak, the state monopoly of the legitimate use of force has been embedded, pooled or even delegated since the 1990s.

* This paper was written under the auspices of the Bremen TranState research centre (<http://www.state.uni-bremen.de>). Financial support by the *Deutsche Forschungsgemeinschaft* is gratefully acknowledged. We would like to thank Axel Domeyer, Mariya Shisheva, Holger Stritzel and Dana Trif for research assistance and Angelika Behlen and Dayna Stefanidis for editorial help. Earlier versions of this paper were presented at the meeting of the International Relations Section of the German Political Science Association in Mannheim, 6/7 October 2005 and at the annual UACES conference in Limerick, 31 August – 2 September 2006. We are also grateful to James Davis and Berthold Rittberger for constructive comments.

Even in its core activity, the Western European state has become part of a multi-level system of governance.

In recent years, many writers have argued that during the last three or four decades state choices in important fields such as trade, monetary policy, environmental affairs and even in security policy are increasingly constrained by external influences, usually summarized under the label of 'globalization'. International relations theory argues that in order to cope with these external challenges, states have created international institutions for jointly managing interdependence and at the same time minimizing losses of sovereignty.¹ The member states of the European Union have gone furthest and created the strongest and most complex system of international governance among themselves. As a result, 'Europeanization' seems to lead to far-reaching changes of and within the EU-member states.² While these empirical observations are widely shared, their consequences for the European state are still contested. Whereas realists maintain that despite globalization and the proliferation of international institutions, the Westphalian system of sovereign states is still intact, others see the state as fundamentally challenged and rendered obsolescent by globalization and its consequences. An intermediary third position argues that the state is neither intact nor obsolescent but undergoes a profound transformation.³ However, there is strong disagreement about the extent and trajectory of such a transformation.

¹ Beth A. Simmons and Lisa L. Martin, "International Organizations and Institutions," in: Walter Carlsnaes, Thomas Risse and Beth A. Simmons, eds., *Handbook of International Relations* (London etc.: Sage, 2002), 192-211.

² Cf. Maria Green Cowles, James A. Caporaso and Thomas Risse, eds., *Transforming Europe. Europeanization and Domestic Change* (Ithaca: Cornell University Press, 2001) and Kevin Featherstone and Claudio M. Radaelli, eds., *The Politics of Europeanization* (Oxford etc.: Oxford University Press, 2003).

³ Examples for the respective positions are Stephen D. Krasner, *Sovereignty. Organized Hypocrisy* (Princeton: Princeton University Press, 1999); Philip G. Cerny, "Globalization and the Changing Logic of Collective Action," *International Organization* 49, no. 4 (1995), 595-625; Stephan Leibfried and Michael Zürn, eds., *Transformations of the State?* (Cambridge etc.: Cambridge University Press, 2005).

In order to advance this debate about the internationalization of the state, we propose to look at changes in policing. Few would dispute the importance of this issue given the current challenges by international terrorism to the modern democratic state. However, our argument goes further. Policing is not only an important policy area but closely linked to a defining feature of the state. According to Max Weber, a state exists “insofar as its administrative staff successfully upholds the claim to the *monopoly* of the *legitimate* use of force in the enforcement of its order.”⁴ The use of force on a state’s territory is usually exercised by the police. If the state’s use of its own police forces was dependent on international institutions, this would constitute strong evidence for a fundamental transformation of the state. Interestingly, we know remarkably little about the type and extent of such changes, the causes and mechanisms triggering them and the consequences of these changes to the liberal democratic state. Before entering prematurely into arguments about causes and consequences of state change, however, it is necessary to provide solid evidence for the type and quality of such changes. This is what we endeavor in the present paper.

Analyzing International Police Cooperation

We propose to analyze how much international cooperation impinges on the state’s monopoly of the legitimate use of its police. Our focus is on West European states. Historical accounts clearly show that states have indeed used the police to support their claim to exclusive control over their territory and to suppress rival claims. The histories of national police systems almost up to the present read like exclusive national histories, like accounts of specific paths of development virtually without external interference.⁵ Until the early 1990s, works on in-

⁴ Max Weber, *Economy and Society. An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich (Berkeley; London: University of California Press, 1978 [1922]), 54 (emphasis in original). The same argument is made by Gianfranco Poggi, *The State. Its Nature, Development and Prospects* (Stanford: Stanford University Press, 1990), 5-18.

⁵ Major overviews are Jacques Aubert, ed., *L’Etat et sa police en France. 1789-1914* (Genève: Droz, 1979); David H. Bayley, *Patterns of Policing. A Compara-*

ternational police cooperation were quite rare, especially if compared to the burgeoning literature on international cooperation in other issue areas.⁶ The literature thus seems to confirm that the development of national police systems was closely linked to the establishment of national states and that states could use their police without much external interference even in periods when other areas began to be affected by globalization. If the quantity of secondary literature is at least a gross indicator of the salience of an issue, it seems that the internationalization of the police did not constitute a problem for states well into the 1990s. At first glance, it seems that the state monopoly of force was neither challenged nor constrained by international institutions.

But this picture may be misleading. The debate on changes in fundamental properties of the state and of the Westphalian order often uses highly abstract concepts which are difficult to operationalize for empirical research. These concepts are also often used in a dichotomic way – a political entity either possesses a monopoly of force and hence is a state or it does not possess it and is therefore at best a failed state. As gradual variations are excluded by this dichotomic conceptualization, the threshold for change is very high.⁷ In addition, changes may occur very slowly, both in terms of the causal factors at work and of the outcomes they produce.⁸ In order to be able to detect a potential

tive International Analysis (New Brunswick: Rutgers University Press, 1985); Hans Boldt, "Geschichte der Polizei in Deutschland," in: Hans Lisken and Erhard Denninger, eds., *Handbuch des Polizeirechts* (München: Beck, 2nd ed. 1996), 1-39; Clive Emsley, *The English Police. A Political and Social History* (London: Longman, 2nd ed. 1996); Albrecht Funk (1986), *Polizei und Rechtsstaat. Die Entwicklung des staatlichen Gewaltmonopols in Preußen 1848-1914* (Frankfurt a.M.; New York: Campus, 1986); Wolfgang Knöbl, *Polizei und Herrschaft im Modernisierungsprozeß. Staatsbildung und innere Sicherheit in Preußen, England und Amerika 1700-1914* (Frankfurt a.M.: Campus, 1998).

⁶ Malcolm Anderson, *Policing the World. Interpol and the Politics of International Police Co-operation* (Oxford: Clarendon, 1989) is one of the few works on international police cooperation which appeared before 1990.

⁷ James A. Caporaso, "Changes in the Westphalian Order. Territory, Public Authority, and Sovereignty," *International Studies Review* 2, no. 2 (2000), 1-28, esp. 4-6.

⁸ Paul Pierson, *Politics in Time. History, Institutions, and Social Analysis* (Princeton: Princeton University Press, 2004), 79-102.

internationalization of the monopoly of force, we thus need empirical categories which help us to avoid overabstraction as well as dichotomization and are suitable to detect even small and incremental changes. We try to cope with these issues by covering key issues of police activity, analyzing an extended time period, disaggregating the monopoly of force, and using a ranked measure for internationalization.

Key issues: The tasks of the police strongly vary over time and across countries. However, two fields of activity are of paramount importance for the state, they can be found in virtually all states, and they are strongly affected by globalization. States are therefore likely to create international institutions in these fields in order to cope with the consequences of interdependence. These fields are the fight against terrorism and the fight against drugs. As terrorism attempts to change the prevailing political order, it is a crime against the state and its monopoly of force as such. It is thus highly politicized. Although drug enforcement is framed in more technical terms, it is also highly important because narcotics constitute the largest of all illegal markets and because their production and consumption are linked to numerous other fields of criminal activity.

Extended time period: Covering an extended period of time is important if we want to track small but possibly cumulative changes. In order to do so, we compare the 1960s/1970s with the 1990s/2000s. On the one hand, both periods are similar. Already in the 1970s, the pressure towards international cooperation was high. International terrorism by national liberation movements and political extremists reached its zenith around the 1970s, and a new wave of international terrorism mainly motivated by religious fundamentalism appeared during the 1990s. International drug prohibition was a major international issue in the 1960s and 1970s, mainly due to US pressure. In the 1990s, the fight against international financial flows ranked high on the agenda. On the other hand, both periods differ because the 1960s and the 1970s can be regarded as the initial phase of international cooperation with the creation of new institutions in the respective fields after World War II, whereas in the 1990s and 2000s states act within the framework of a quite dense net of pre-existing institutions.

Disaggregation: In order to avoid the problems of overabstraction and dichotomization, it is useful to distinguish several interrelated le-

vels of the monopoly of force, namely legitimation, methods, and authorization.

- *Legitimation* concerns the justification of state action: When and under which circumstances can the state *legitimately* use its monopoly of force? Concretely, this mainly involves problem definitions or definitions of crimes – who is a terrorist, and what is an illicit drug?
- *Methods* refer to the means that can be used to pursue legitimate goals. Examples include the sharing of information or investigation techniques.
- *Authorization* is about who is going to permit the use of force. For our purposes, the key question is whether actors outside a particular state can authorize the use of force within that very state.

The structuring idea behind this scheme is that legitimation, methods, and authorization come increasingly closer to the core of the monopoly of force, the actual use of force.⁹ The latter could be called the ‘operations’ level but for the time being remains subject to exclusive state control and is therefore not part of our study. This must not lead to the conclusion that the state monopoly of force remains unchanged – legitimation, methods and authorization of its use are crucial parts of the whole concept.

Measuring internationalization: In order to find out how strongly international police cooperation impinges upon the state monopoly of force, we need to measure the strength of institutions in the respective issue areas. The stronger these institutions are, the weaker the states’ exclusive grip on their police. While there are more sophisticated scales to measure similar concepts,¹⁰ the following simple ordinal scale is sufficient for our purposes without making operationalization too difficult:

⁹ For a more comprehensive explanation, cf. Jörg Friedrichs, *Fighting Terrorism and Drugs. Europe and International Police Cooperation* (London; New York: Routledge, forthcoming 2007). See also Jörg Friedrichs, “When push comes to shove: the territorial monopoly of force and the travails of neomedieval Europe,” in: Michael Burgess and Hans Vollaard, eds., *State Territoriality and European Integration* (London etc.: Routledge, forthcoming 2006), 228-251.

¹⁰ E.g. the scale for measuring ‘legalization’ developed in Kenneth W. Abbott et al., “The Concept of Legalization,” *International Organization* 54, no. 3, 401-419.

0. *no cooperation*: There are no international institutions dealing with police affairs. States are completely free in exercising their monopoly of force;
1. *ad hoc (or informal) cooperation*: There are no formalized international institutions (organizations or regimes) dealing with police affairs. States cooperate on an informal or case-by-case basis. Exit is easily possible;
2. *embedding*: States jointly decide in an issue area. Decisions are taken by unanimity or by consensus. Substantial exit options or large degrees of freedom for domestic implementation are available. ‘Embedding’ is a kind of half-way house. States agree on a common framework but at the same time retain large degrees of domestic autonomy.¹¹;
3. *pooling*: States jointly decide in an issue area, either by unanimity or by some kind of majority. Decisions are binding and without much leeway in implementation. ‘Pooling’ designates a situation where states have agreed to deal with an issue by collective instead of unilateral decision-making. Even if they decide by unanimity, leaving a veto to each state, the final outcome will in many cases be different from the preferences of single states. States agree to collective decision-making and the need for compromises it entails because they do not have viable unilateral options;
4. *delegation*: The respective issue is transferred to an independent agent (be it an international organization, another state or a private actor). States have largely lost control over the issue. ‘Delegation’ means that states have given away the power to deal with an issue to another agent. This does not have to be an international organization but can also be another state, or even a private actor. The decisive point is that in this case states have lost control of their monopoly of force.

In the following, we analyze the development of international cooperation in the fight against terrorism and in the fight against drugs.

¹¹ This category builds upon the work of John Gerard Ruggie, “International Regimes, Transaction, and Change. Embedded Liberalism in the Postwar Economic Order,” *International Organization* 36, no. 2 (1992), 195-231.

We compare the 1960s/1970s with the 1990s/2000s by looking at the legitimization, methods and authorization levels of the monopoly of force and by measuring the degree of internationalization in the respective issue areas.

Legitimizing International Police Cooperation

International police cooperation is usually legitimated by the need to deal with a common problem that cannot be solved by individual states. States had to decide what an illicit drug was and which actions would qualify as terrorism instead of being ‘normal’ crimes. Efforts to consolidate a definition of prohibited drugs and to agree on measures against the use of such drugs gained force already in the early 1950s. The United Nations *Single Convention on Narcotic Drugs* was adopted in 1961. At the time the United States was faced with rising levels of drug consumption at home and abroad (mainly by US soldiers).¹² The US was convinced that a strategy relying solely on the reduction of consumption was not efficient. It instead strongly advocated an approach based on the reduction of supply and the prohibition of drugs widely defined. Such an approach required international cooperation. Consequently, the US became the driving force behind the development of the UN drug regime. This also applies to the modifications to the Single Convention adopted in 1972. The *United Nations Fund on Drug Abuse Control*, also set up on the initiative of the United States, further institutionalized the regime.¹³

The UN drug regime which emerged during the 1960s and early 1970s is to a large degree characterized by US concepts which were

¹² On the development of the UN drug regime and the US influence on this regime, cf. Richard H. Friman, *NarcoDiplomacy. Exporting the US War on Drugs* (Ithaca: Cornell University Press, 1996); Jurg Gerber and Eric L. Jensen, eds., *Drug War, American Style. The Internationalization of Failed Policy and its Alternatives* (New York: Garland, 2001); Adolf Lande, “The Single Convention on Narcotic Drugs, 1961,” *International Organization* 16, no. 4 (1962), 776-797; Ethan A. Nadelmann, *Cops Across Borders. The Internationalization of U.S. Criminal Law Enforcement* (University Park: Pennsylvania State University Press, 1993).

¹³ William B. McAllister, *Drug Diplomacy in the Twentieth Century. An International History* (London; New York: Routledge, 2000), 235-8.

only slightly modified upon the insistence of other states. The total prohibition of drugs such as heroin which would have precluded even medical research was not made mandatory following the opposition of countries with leading pharmaceutical industries such as Germany or the UK. But Art. 36 of the *Single Convention* obliges states to punish illicit supply. Demand-side measures were advocated by some European states and even included into the convention (Art. 38). They remained, however, of minor importance. At this point, the conception that the supply of certain drugs was the problem and a criminal act, and that reducing this supply was the solution dominated the regime. The problem definition of some European states which saw drug consumption also as a health problem did not have a major impact.

During the 1960s, some states realized the danger coming from synthetic drugs such as LSD, amphetamines and barbiturates. Especially Third World countries objected that the blame for drug abuse was almost exclusively put on the source countries of narcotic drugs. Several European states unsuccessfully criticized what they considered to be excessively bureaucratic controls for substances of minor danger.¹⁴ Nevertheless, the emergence of synthetic drugs which were not only consumed but also produced in advanced capitalist countries strengthened the argument of the Third World countries which could now claim that industrialized countries were not only drug-consuming but also drug-producing countries. Once more, however, the *Convention on Psychotropic Substances* adopted in 1971 and subsequently put into practice mainly focused on supply-side measures.

The *Commission on Narcotic Drugs*, created in 1946 by the UN Economic and Social Council, is, among other issues, entitled to make recommendations for the implementation of the goals of the convention. In addition, the *International Narcotics Control Board*, established in 1968, is an independent expert body explicitly mandated by the 1961 and the 1971 conventions (Art. 14 and 19 respectively) to monitor the obligations of states under the UN drug conventions, including treaty implementation.

Overall, the drug regime that had developed until the 1970s contained rather tight provisions on the prohibition of certain substances.

¹⁴ Kettil Bruun, Lynn Pan and Ingemar Rexed, *The Gentlemen's Club. International Control of Drugs and Alcohol* (Chicago: University of Chicago Press, 1975).

Participating governments were no longer free to decide what an illegal drug was. They had obliged themselves to punish drug production, trafficking and possession. There were few exit options and little freedom in implementation. The criminalization of supply as the key strategy against drugs had become pooled into a rather comprehensive regime under the auspices of the United Nations.

The debate on terrorism took quite a different course. International terrorism became a major issue of world politics only after terrorists tried to internationalize the Middle East conflict in the late 1960s and early 1970s. After Secretary-General Waldheim had put the topic on the agenda of the UN General Assembly in 1972, the US submitted a draft *Convention for the Prevention and Punishment of Certain Acts of International Terrorism*.¹⁵ The US draft was not designed as a comprehensive approach but limited to certain acts of international terrorism only and did not suggest any legal definition of terrorism. Still, the US initiative faced stout opposition from the Non-Aligned and African countries supported by France. They argued that the causes of terrorism should be discussed before repressive measures were taken. In addition, the non-aligned countries suspected that the US draft was intended to outlaw national liberation movements.

In order to sort out these differences, the General Assembly established an Ad Hoc Committee on International Terrorism.¹⁶ The main problem in this committee was to find a common understanding of international terrorism that could have provided the necessary legitimacy for jointly combating terrorism. In 1973, it became apparent that the respective positions could not be reconciled. No agreement on a comprehensive approach to terrorism and the definition of terrorism seemed possible. Such an agreement would have bound the states to a *general* criterion irrespectively of specific circumstances and well into the future. Most states were well aware that such a general definition might outlaw groups they supported politically. In addition, major substantive disagreement prevailed, most notably about the causes of terrorism as a potential qualifier for terrorist acts.¹⁷

¹⁵ A/C.6/L.850, Draft convention, 25 September 1972.

¹⁶ A/RES/3034, General Assembly resolution, 18 December 1972.

¹⁷ For further details, cf. Jörg Friedrichs, "Defining the International Public Enemy. The Political Struggle Behind the Legal Definition of International Terrorism,"

As a result, UN member states continued on the path started already in 1963 with the *Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft*. They concluded highly specific treaties in areas where the issue at stake was more narrowly confined. These conventions avoided contentious issues such as the causes of terrorism or the assessment of national liberation movements in general and were therefore able to secure a much higher degree of support than the failed general convention.¹⁸ However, these conventions carefully avoided to define terrorism. Even if taken together, they do not constitute an equivalent to a comprehensive definition. Cooperation on a definition of terrorism had failed.

In 1999, the UN resumed its work on a general convention on terrorism after the General Assembly had re-established the Ad Hoc Committee on Terrorism. 9/11 did not much to change the underlying conflicts. Some states (notably those represented by the Organization of the Islamic Conference) still insist on the exemption of national liberation movements.¹⁹ At present, negotiations on the draft comprehensive convention²⁰ are still continuing. In parallel, the Security Council created a mechanism for listing and sanctioning individuals and organizations linked to the Taliban and Al-Quaida organizations.²¹ However, this mechanism does not specify the criteria for identifying terrorists or terrorist organizations. Hence, there is still no agreement on a definition of terrorism within the UN.

After the failure of a comprehensive definition of terrorism within the UN framework in the early 1970s, European states attempted to achieve more intensive cooperation within a politically more homogenous setting. The 1977 *European Convention on the Suppression of*

Leiden Journal of International Law 19, no. 1 (2006), 69-91.

¹⁸ Cf. M. Cherif Bassiouni, *International Terrorism. Multilateral Conventions (1937-2001)* (New York: Transnational Publishers, 2001) and <http://untreaty.un.org/English/Terrorism.asp> (accessed 6 August 2006) for overviews.

¹⁹ Katja Wiesbrock, "Wer ist Terrorist?" *Vereinte Nationen* 50, no. 2 (2002), 72-73.

²⁰ A/59/894, Annex II: Draft convention, 12 August 2005.

²¹ Security Council resolution S/RES/1267 of 15 October 1999.

Terrorism, negotiated within the framework of the Council of Europe, tries to solve the problem of defining terrorism by listing a number of offences which are not considered to be political offences (Art. 1) and therefore subject to normal extradition procedures. This is not a comprehensive definition and leaves a number of major loopholes, but it is a major step forward from the narrow sectoral conventions. However, the convention provides easy exit options for its member states.

The EU was able to develop this approach much further. The 2002 Council framework decision on combating terrorism²² lists a large number of criminal offences which are considered terrorist acts if they follow certain intentions which are also listed in the text (Art. 1). Although they are more detailed, the provisions of the EU framework decision are very similar to those of the current draft for a comprehensive UN convention. The EU has thus adopted a general definition of terrorism that can be used to legitimate measures against it. The framework decision is also much more constraining than the 1977 Council of Europe convention. Although framework decisions have to be transposed into national law, the member states' margin of maneuver in implementing them has been considerably reduced by a 2005 decision by the European Court of Justice.²³ In our terminology, this amounts to pooling the control of the monopoly of force on the legitimation level.

The UN drug regime had from the outset been much more advanced and stable than the failed attempts to define international terrorism. The 1988 *Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances* broadened the scope of the regime and confirmed the prevailing approach oriented towards the suppression of supply. The regime became further institutionalized by the creation of the *UN Drugs Control Program* in 1991 which came under the umbrella of the *UN Office for Drug Control and Crime Prevention* in 1997 (since 2002 the *UN Office for Drugs and Crime*). The differences between the prevailing approach and the desire of some European states on the one hand and some producer countries on the other

²² 2002/475/JI, OJ L 164/3, 22 June 2002, pp. 3-7.

²³ Case C-105/03, judgement of 16 June 2005.

to strengthen the role of demand reduction and damage prevention persisted.

Within the UN, the 1998 General Assembly Special Session on Drugs played an important role for bringing together an informal coalition between consumer countries in Europe and producer countries in the South against the dominant US-led law enforcement approach.²⁴ Within the EU, states increasingly attempted to adopt their own rules. Although substantial parts of the policy against drugs are still within the domain of member state competences, there are also EU competences in the field since the Maastricht Treaty of 1991. With the establishment of the European Drug Unit and the European Monitoring Centre on Drugs and Drug Addiction in 1995, EU member countries set out to develop a European strategy to fight drugs. The EU developed various actions plans and strategies on drugs.²⁵

However, these efforts did not lead to the emergence of a new regime or to a substantial transformation of the prevailing problem-definitions. Most importantly, substantial differences about the right anti-drugs strategy still persist among EU member states. As a result, the EU tries to promote measures targeted at demand reduction without challenging the UN regime. The UN drugs regime has even been confirmed by its incorporation into the *acquis communautaire*, i.e. into the undisputed set of rules which all new member states must adopt.

On the whole, therefore, the UN drug regime established in the 1960s and 1970s remains quite stable and did not experience substantive changes on the level of legitimation. The prohibition/repression strategy, which according to our terminology is institutionalized on the level of pooling, is still the cornerstone of the regime. There are signs of discontent, but there is no clear evidence of the emergence of a substantially different European regime.

²⁴ Martin Jelsma, "Drugs in the UN System. The Unwritten History of the 1998 United Nations General Assembly Special Session on Drugs," *The International Journal of Drug Policy* 14 (2003), 181-195.

²⁵ See Elvins, Martin, *Anti-Drugs Policies of the European Union: Transnational Decision-Making and the Politics of Expertise* (Basingstoke: Palgrave-Macmillan, 2003) for an overview. Cf. the *EU Drugs Action Plan (2005-2008)*, OJ C 168, 8 July 2005, 1-18 and the *EU Drugs Strategy (2005-2012)*, Council Document 15074/04, adopted by the European Council on 16/17 December 2004.

Methods of International Police Cooperation

The most important forms of cooperation at the methods level are the sharing of information about terrorists or drug criminals and of methods to combat them.

In the field of drugs, the US took an active interest in promoting its enforcement techniques and exported them to Europe through bilateral channels. Initially, the US exerted pressure on the French police to crack down on the so-called 'French Connection',²⁶ and on the German police to cut the drug supply to US citizens stationed on army bases in Germany. During the 1970s, the US introduced two important techniques to Europe, namely infiltration and 'Going for Mr. Big'. Infiltration meant the use of informants and undercover agents, the observation of suspects, and controlled deliveries of illicit drug consignments. 'Going for Mr. Big' implied the acknowledgement that arresting drug peddlers on the street would not eradicate organized drug trafficking. Instead, heads of syndicates were now becoming the new targets by tracing back supplier and trafficking routes.²⁷ European police forces learned such techniques both in the US and at home. They went to the US for study visits, courses and internships, while US officers taught courses in Europe as well.

European states started various attempts to create information exchange forums in the 1970s. The first and best-known was TREVI, an informal arrangement of EU member states founded in 1975 which united ministers of the interior. It created several administrative working groups dealing with the exchange of information and coordinating the fight against terrorism.²⁸ All TREVI member countries established

²⁶ John T. Cusack, "Response of the Government of France to the International Heroin Problem," in: Lutz R. S. Simmons and Abdul A. Said, eds., *Drugs, Politics and Diplomacy. The International Connection* (London etc.: Sage, 1974), 229-54, at 242-4.

²⁷ Cf. Nadelmann, Fn. 12, 192, 194, 207-46, for infiltration and Nicholas Dorn, Karim Murji and Nigel South, *Traffickers. Drugs Market and Law Enforcement* (London/New York: Routledge, 1992), 63-70 for 'Going for Mr. Big'.

²⁸ Didier Bigo, *Polices en réseaux. L'expérience européenne* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1996), 88; Alain Guyomarch, "Cooperation in the Fields of Policing and Judicial Affairs," in: Stelios Stavridis, Elias Mossialos, Roger Morgan and Howard Machin, eds., *New Challenges to*

liaison offices in 1977 in order to link their police forces and their secret services. Later, TREVI decided to exchange object-related intelligence as person-related intelligence was subject to data protection. These initiatives were facilitated by the emerging use of computers for police work during this period. Police officers met in the Police Working Group on Terrorism (PWGOT), founded in 1979 after the assassination of the British ambassador to the Netherlands. It initially comprised only Belgium, Germany, the Netherlands and the UK but quickly grew to include all EU countries and also some third countries. It mainly facilitated the exchange of intelligence via its own method of encryption and promoted the secondment of officers to other countries.²⁹ Even more secretive groups emerged over the years to facilitate the exchange of information,³⁰ indicating that states seemed to perceive a strong functional need in this respect.

Information related to drugs was exchanged in the Pompidou group. Discussions focused on the approximation of legislation and on methods of drug control but did not yield any tangible results. While TREVI was kept outside the formal institutional framework of the European Communities, the Pompidou group instead was incorporated into the Council of Europe in 1980. These highly informal arrangements of information exchange during the 1970s qualify as ad hoc or informal cooperation.

9/11 served as a catalyst not only in the area of intelligence on terrorism but also on drugs and serious crime in general. Instead of only aiming at a systematic exchange of sensitive information as in the 1970s, EU member states now discuss issues like the establishment of a European database on Islamic fundamentalists, EU rules for the retention of mobile phone or internet connection data, or the sharing of

the European Union. Policies and Policy-Making (Aldershot: Ashgate, 1997), 123-149, at 130-1; Hans-Jürgen Lange, *Innere Sicherheit im politischen System der Bundesrepublik Deutschland* (Opladen: Leske und Budrich, 1999), 149.

²⁹ John Benyon, Lynne Turnbull, Andrew Willis, Rachel Woodward and Adrian Beck, *Police Co-operation in Europe. An Investigation* (Leicester: Centre for Study of Public Order, 1993), 188.

³⁰ Cf. Bigo, Fn. 28, 84 and 89; Benyon at al., Fn. 29, 212; Peter J. Katzenstein, *West Germany's Internal Security Policy. State and Violence in the 1970s and 1980s* (Ithaca: Cornell University Press, 1990), 56.

national databases at the EU level.³¹ Since the 1990s, a substantial number of organizations and networks for the sharing of information in police affairs have been created, most notably the Schengen Information System³² and Europol³³, both of which are not restricted to terrorism. These efforts show that EU member states are caught in a dilemma between efficiency and autonomy: Whereas efficiency considerations in an area without or with highly permeable internal borders strongly suggest the sharing of intelligence information, some states want to keep this information under exclusive control. This makes them particularly reluctant to share information with an independent agency such as Europol which cannot be controlled by any state individually.

In sum, cooperation in the field of methods to fight terrorism has in recent years created a situation where EU member states are no longer in complete control of important information. Whereas in earlier years a number of EU member states were not willing to share intelligence with Europol, all now agree that it is important to foster the exchange of anti-terrorist intelligence and have launched a number of initiatives in this field. Connecting the own database with the corresponding databases of other EU member states or even directly setting up such a database on specific types of terrorist suspects on the EU level requires the commitment to share past and present intelligence with all participating states. EU regulations have created a common framework for the systematic exchange of anti-terrorist data and a strong commitment to that practice even though the member states may retain

³¹ E.g. *Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks and Amending Directive 2002/58/EC*, OJ L 105, 13 April 2006, 54–63.

³² Rey Koslowski, “Border and Transportation Security in the Transatlantic Relationship,” in Anja Dalgaard-Nielsen and Daniel S. Hamilton (eds.), *Transatlantic Homeland Security? Protecting Society in the Age of Catastrophic Terrorism* (London: Routledge, 2006), 89-105 at 93-4

³³ Cf. John D. Occhipinti, *The Politics of EU Police Cooperation. Toward a European FBI?* (Boulder: Lynne Rienner, 2003).

some information according to domestic law. In our classification of the degree of internationalization, this is a case of embedding.

The situation is even more pronounced with respect to drugs. During the 1980s, combating money laundering had supplemented information exchange as a key method of fighting drug crime.³⁴ From the perspective of national governments, the development of the international money laundering regime is the history of increasing influence of an international body, the *Financial Action Task Force* (FATF) of the OECD. The money laundering regime was formally established with the 1988 UN *Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. Large drug syndicates were considered to be a major threat to the political, social and financial stability of certain states, and the idea was to make drug trafficking more risky by ‘following the money trail’ and getting hold of the profits derived from it. Following the UN, the Council of Europe adopted the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* in 1990, and only one year later the EU agreed on a directive against money laundering which was amended in 2001 and again in 2005.³⁵ The 2000 UN *Convention against Transnational Organized Crime* (Art. 7) also contributed to regime development. Most importantly, the regime was elaborated by a series of recommendations issued by the FATF since its establishment in 1989. Moreover, the UN Security Council has urged states to freeze the bank accounts of individuals or organizations involved in terrorist activities.³⁶

³⁴ William C. Gilmore, *Dirty Money. The Evolution of International Measures to Counter Money Laundering and the Financing of Terrorism* (Strasbourg: Council of Europe Publishing, 3rd ed. 2004); Donato Masciandaro, ed., *Global Financial Crime. Terrorism, Money Laundering and Offshore Centres* (Aldershot etc.: Ashgate, 2004); Valsamis Mitsilegas, *Money Laundering Counter-Measures in the European Union. A New Paradigm of Security Governance versus Fundamental Legal Principles* (Den Haag: Kluwer, 2003); Ernesto U. Savona, ed., *Responding to Money Laundering. International Perspectives* (Amsterdam: Harwood, 1996).

³⁵ *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing*, OJ L 309, 25 November 2005, 15-36.

³⁶ Security Council Resolution S/RES/1373, 28 September 2001.

The money laundering regime led to the lifting of the banking secrecy and of the professional secrecy of lawyers whenever suspicious transactions are concerned. The scope of crimes covered was successively enlarged and covered more and more types of financial transactions. The regime has also led to substantive domestic changes such as the shifting of the burden of proof to the suspect, transformations of penal laws, of regulations of the financial sector and of privacy laws. The FATF was remarkably successful in sponsoring and monitoring this change.³⁷ This is even more true for EU member states, which accepted money laundering as an issue belonging to the ‘first pillar’ of EU activities, thereby accepting adjudication by the European Court of Justice and a strong role in proposing and implementing legislation for the European Commission. The emerging consensus behind money laundering might be interpreted as the emergence of a norm which makes it difficult for a state to oppose specific aspects of it which are not in its interest. In the field of money laundering, states have established and further developed a joint set of rules which is monitored mainly by the FATF. The domestic autonomy of states has been increasingly reduced. In our scale of internationalization, this is a case of pooling.

Authorizing International Police Action

Cooperation in police matters becomes more concrete and more intrusive when it takes place at the level of authorization. With respect to terrorism, this mainly refers to extradition, i.e. to rules about the conditions under which a person can be handed over to the police authorities of another state. With respect to drugs, cooperation may take place within cross-national or ‘joint investigation teams’, i.e. groups of police officers with participants from more than one country.

The international extradition regime traditionally contains political exemption clauses, which amongst other things exclude terrorist offences from the application of extradition treaties.³⁸ After the incon-

³⁷ Jackie Johnson and Y. C. Desmond Lim, “Money Laundering. Has the Financial Action Task Force Made a Difference?,” *Journal of Financial Crime* 10 (2002), no. 1, 7-22.

³⁸ A good example is the *European Convention on Extradition* of 13 December

clusive UN debate during the early 1970s on a comprehensive convention on international terrorism, France suggested a European solution in 1975. The resulting *European Convention for the Suppression of Terrorism* of the Council of Europe was signed in 1977. It included provisions on extradition but at the same time contained far-reaching opt-out clauses (Art. 13) and the possibility to denounce the convention with immediate effect (Art. 14).³⁹ Despite the existence of a treaty, we therefore qualify international cooperation in the field of extradition as remaining at the ad hoc or informal level during the 1970s.

Stuck after these negotiations, the European extradition regime regained new momentum only after the end of the Cold War. In the mid-1990s, EU member states negotiated two conventions on extradition matters.⁴⁰ However, they did not reach the required ratification by all member states and thus never entered into force. Attempts at creating a more effective European extradition regime had once again failed.

The main proponents of a relaunch were Spain (and later the UK) at the 1999 European Council in Tampere. These two countries promoted the new principle of mutual recognition of criminal sentences as a replacement of the present extradition regime. After the Tampere European Council had endorsed this principle, the Commission drafted a framework decision for a European Arrest Warrant, which it submitted to the Member States immediately after 9/11. Again, 9/11 served as a catalyst: only three months later, the Council of Ministers reached political agreement on the framework decision, which was

1957 and the numerous declarations annexed to it. See also M. Cherif Bassiouni, *International Extradition. United States Law and Practice* (New York: Oceana, 4th ed. 2002) and Ethan A. Nadelmann, "The Evolution of United States Involvement in the International Rendition of Fugitive Criminals," *New York University Journal of International Law and Politics* 25 (1993), 813-885.

³⁹ Noemi Gal-Or, *International Cooperation to Suppress Terrorism* (London: St. Martin's Press, 1985).

⁴⁰ *Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on simplified extradition procedure between the Member States of the European Union*, OJ C 78, 30 March 1995, 2-10 and *Convention drawn up on the basis of Article K.3 of the Treaty on European Union, relating to extradition between the Member States of the European Union*, OJ C 313, 23 October 1996, 12-23.

formally adopted after another six months.⁴¹ The European Arrest Warrant contains a long list of offences which goes far beyond the area of terrorism and includes references to acts of ‘computer-related crime’, ‘swindling’, or ‘counterfeiting and piracy of products’ (Art. 2). It entered into force in all Member States but remains contested.⁴²

At present, the European Arrest Warrant is probably the most far reaching agreement in the field of police cooperation. Its significance extends far beyond the field of terrorism. The introduction of the principle of mutual recognition in criminal matters, modeled after a similar rule for technical standards, is a fundamental departure from the previous extradition regime. It is generally believed to be a precedent for further measures based on the same principle, such as the European Evidence Warrant.⁴³ The European Arrest Warrant replaces the traditional prerogative of EU member states to take a political decision about extradition or non-extradition from their territory by a formalized procedure according to legal criteria. In other words, a semi-diplomatic procedure is replaced by a purely judicial one. Although the European Arrest Warrant contains a number of possible justifications for refusing the surrender of a person, these justifications are all based on legal considerations and can be exercised only by the judicial authorities. Decisions based on the European Arrest Warrant can be

⁴¹ *Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures Between Member States*, OJ L 190, 18 July 2002, 1-18.

⁴² Several challenges have been brought forward against it before national constitutional courts, the Commission has criticized Member States for deficient implementation, and a preliminary ruling brought to the European Court of Justice by a Belgian court challenges the use of a framework directive instead of an international convention; cf. House of Lords, European Union Committee, 30th Report of Session 2005–06, *European Arrest Warrant. Recent Developments. Report with Evidence*, ordered to be printed 28 March and published 4 April 2006, HL Paper 156. See also Jan Wouters and Frederik Naert, “Of Arrest Warrants, Terrorist Offences and Extradition Deals. An Appraisal of the EU’s Main Criminal Law Measures Against Terrorism After ‘11 September’,” *Common Market Law Review* 41, no. 4 (2004), 909-935.

⁴³ *Proposal for a Council Framework Decision on the European Evidence Warrant for Obtaining Objects, Documents and Data for Use in Proceedings in Criminal Matters*, COM (2003) 688, 14 November 2003. The Council reached a political agreement on this issue on 1 June 2006.

challenged in court. The European Arrest Warrant is thus equivalent to EU legislation in other fields. It does not create a supranational monopoly of force or empower an intergovernmental organization such as Europol. Instead, it is a case of horizontal delegation, where states delegate their power to arrest people to other states or act on behalf of other states in this respect.

Already in the 1970s, some states had also started to cooperate in the fight against drugs on the authorization level. They did not only exchange information and provide technical aid for drug monitoring but also began to exchange personnel for joint investigation and joint raids against drug producers or traders.⁴⁴ Most of this cooperation took place in bilateral frameworks with the US, with transit countries or with producer countries. While France relied only on bilateral cooperation, Germany built up a web of multilateral regional working groups with its neighboring countries overseen by a central working group. The US was involved in all of these groups. The French intensified their cooperation with US authorities at this level in the late 1960s, the Germans in the early 1970s. These informal contacts were formalized in a Franco-American protocol agreed upon in 1971 and in a German-American protocol of 1978.⁴⁵ Cooperation with the UK was less formalized because the British police enjoyed a relatively high degree of autonomy from the state and because problem pressure remained relatively low as no major transit routes passed through British territory.

Formalized cooperation also led to the deployment of liaison officers. A small number of German and French policemen were seconded to both producing and transit countries as well as to the US. The US had been sending liaison officers abroad for a long time.⁴⁶ While the

⁴⁴ For raids along the Dutch-German border, cf. Bundeskriminalamt, Wiesbaden, May 10, 1974, *Ergebnisvermerk über die 14. Sitzung der Ständigen Arbeitsgruppe – Rauschgift – der Arbeitsgemeinschaft Kripo am 8./9.5.1974 in Wiesbaden* (in: Federal Archive File B 106/85199).

⁴⁵ Honoré Gévaudan, *La bataille de la 'French Connection': Récit* (Paris: Lattès, 1985); Monique Pelletier, *Rapport de la Mission d'Etude des problèmes sur l'ensemble de la drogue* (Paris: La Documentation Française, 1978); Erich Rebscher, "Rechtliche und organisatorische Grundlagen der internationalen Zusammenarbeit bei der Drogenbekämpfung," in: Bundeskriminalamt, ed., *Polizeiliche Drogenbekämpfung* (Wiesbaden: Bundeskriminalamt, 1981), 155-176.

⁴⁶ For an account of the US practice to send drug liaison officers abroad, cf. Na-

US had asked their officers be given executive powers, this strong interference with the state monopoly of force was not granted by European states. Cooperation during the 1970s thus took place in a patchwork of bilateral relations without any binding force. In our scale, this corresponds to the ad hoc or informal level of internationalization.

The cross-national teams which had emerged during this period later became standard instruments⁴⁷ and proved to be an effective tool against transnational drug dealers. As a consequence, the EU considered their formal introduction. The possibility of such teams had already been included into the Amsterdam Treaty (Art. 30 of the Treaty on European Union). However, the EU *Convention on Mutual Assistance in Criminal Matters*, which included provisions on joint investigation teams (Art. 13), encountered difficulties of ratification. Once again, 9/11 served as a catalyst. Only a few weeks later, Belgium, France, Spain and the UK initiated a framework decision on joint investigation teams which was finally adopted in June 2002.⁴⁸ The framework decision does not specify the areas in which joint investigation teams may act and allows for the participation of Europol or Commission agents and of law enforcement agents from third states, explicitly mentioning the US. Although the decision has given these teams a clear legal basis which was previously lacking, the setting up and working of joint investigation teams is still rather difficult. Compared to the 1970s, however, the EU framework decision on joint investigation teams is a formalization of a longstanding practice of cooperation between police agents. As it institutionalizes a clear frame-

delmann, Fn. 12, 129-50, 189-312.

⁴⁷ Anderson, Fn. 6, 159-60.

⁴⁸ *Council Framework Decision of 13 June 2002 on Joint Investigation Teams*, OJ L 162, 20 June 2002, 1-3. The Commission reports on the implementation in *Report from the Commission on National Measures Taken to Comply with the Council Framework Decision of 13 June 2002 on Joint Investigation Teams*, COM (2004) 858, 7 January 2005. For a detailed discussion, cf. Tom Schalken and Maarten Pronk, "On Joint Investigation Teams, Europol and Supervision of Their Joint Actions," *European Journal of Crime, Criminal Law and Criminal Justice* 10, no. 1 (2002), 70-82 and Cyrille Fijnaut, "Police Co-operation and the Area of Freedom, Security and Justice," in: Neil Walker, ed., *Europe's Area of Freedom, Security and Justice* (Oxford: Oxford University Press, 2004), 241-282.

work providing for the possibility of such teams (but without any obligation to actually participate), we qualify this measure as a case of embedding.

In both areas and on all levels examined, we can observe that states were gradually entrapped by developments they did not originally intend. In the field of terrorism, the agreements reached in the 1970s served as a basis for cooperation despite their institutional weaknesses. They created a web of cooperation that had neither been anticipated nor intended by the respective states in the early 1970s. Regardless of the failure to agree on a comprehensive definition of terrorism in the UN framework (i.e. on the level of legitimation), cooperation emerged on the level of methods and authorization within the EU. Its member states no longer debate whether or not they should exchange intelligence but merely discuss the amount of information they want to share. Even if the highly informal TREVI and PWGOT forums did not have a substantial impact at the time of their formation, they paved the way towards tighter cooperation in the field of terrorism.

The most significant developments have occurred on the authorization level in the area of extradition. For EU member states, the extradition of a suspected terrorist is no longer hindered by political exemption clauses because terrorism is part of a list of crimes like any other that fall under the remit of the European Arrest Warrant. Such a delegation of an important aspect of the monopoly of force had not been intended when the European Convention on the Suppression of Terrorism was debated. The significance of the change from a political to a legal procedure is nicely illustrated by the evolution of the French position: Although France had initially proposed the 1977 European Convention on the Suppression of Terrorism, it became much more reluctant and insisted on the numerous exemption clauses that voided the agreement of much of its significance. Ratification followed only in 1987, when it became clear that French judges were following the prescriptions of the convention anyway.⁴⁹ In this situation,

⁴⁹ Cf. Renée Koering-Joulin and Henri Labayle, "Dix ans après ... De la signature (1977) à la ratification (1987) de la Convention européenne pour la répression du terrorisme," *La semaine juridique* 62 (1988), no. 33-37, 31-39.

France felt obliged to ratify a convention which it had originally opposed in order not to compromise the autonomy of its judicial system.

Similar cases of entrapment can be observed in the field of drugs. In the case of money laundering, some states were originally motivated to cooperate primarily by posturing, while preferences were constrained by the national interest and by the interests of national financial communities. Germany, for example, wanted to be seen as hard on money laundering (and eventually profit from the possibilities of controlling tax evasion). Nevertheless, Germany was initially critical towards the 1988 UN *Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. Later on, however, Germany started cooperating in a very pragmatic fashion. Finally, while the remarkable convergence around the investigation techniques of American drug enforcers in the 1970s can be traced back to ad hoc cooperation, EU member states adopted after 2001 a formal legal framework that allowed for the general introduction of multinational investigation teams.

Consequences for the Monopoly of Force

As in other areas of international politics characterized by interdependence, states have also cooperated in police affairs. This type of cooperation is particularly significant as it touches upon the definitional core of state activity, namely the monopoly of the legitimate use of physical force. Over the last decades, states have entered into an increasingly dense net of institutions in the field of police activity. They have adopted legitimating problem definitions, created methods of action and even authorized joint or delegated action. International police cooperation takes place in a variety of international regimes and organizations but is most intensive within the European Union.

International relations theory leads us to expect difficulties of agreement, low degrees of institutionalization, and a focus on technical expertise in areas relating to national sovereignty. This is indeed how international police cooperation started. For several decades, the UN has been unable to agree on a definition of terrorism, provisions on extradition even within Europe were full of exemption clauses, and a substantial part of cooperation consisted in informal information ex-

change among police officers. But when we look at the development over time, a different picture emerges (cf. Table 1).

Table 1: Development of International Police Cooperation

	Drugs		Terrorism	
	1970s	1990s	1970s	1990s
Delegation				Authorization
Pooling	Legitimation	Legitimation Methods		Legitimation
Embedding		Authorization		Methods
Ad hoc/ informal cooperation	Methods Authorization		Authorization Methods	
No cooperation			Legitimation	

In all but one of the fields examined in this paper, the level of institutionalization has increased since the 1970s, the only exception being legitimation in the field of drugs which had, however, already started at a rather high level of institutionalization. After the 1990s, cooperation in all areas reaches at least the ‘embedding’ level of institutionalization. This means that states have created a stable institutional framework while retaining substantial degrees of freedom for implementation. In several cases cooperation has reached the ‘pooling’ or even the ‘delegation’ level. The cases of methods of fighting against drugs and of authorizing action against terrorism are particularly significant because the concrete instruments at stake – the FATF and the European Arrest Warrant – are not limited to the fight against drugs or terrorism but install new procedures with a wide applicability to a large number of issues.

There is also a particular sequence in the development of cooperation. While the literature on international policing usually argues that cooperation started with low-key contacts between police officials and

only later moved to the political level,⁵⁰ our analysis suggests a different picture. In the field of drugs as in the field of terrorism, states started discussing problem definitions in order to legitimate future action. The definition of terrorism proved to be so controversial that no agreement on a general definition was possible. Substantial cooperation was not dependent on an initial interstate agreement on the definition of the problem but nevertheless moved to the levels of methods and authorization after states had at least discussed the legitimation issue. Whereas cooperation at the legitimation level often proved difficult because of the underlying normative conflicts, cooperation at the authorization level comes close to the core of the monopoly of force and is resisted by states for precisely that reason.

This is why the European Arrest Warrant is so significant. Although it does not allow police agents from one state to arrest a person in another state, it entrusts this power to another state and accepts arrest requests from another state without political exit options. A state arresting an individual on the request of another state has put its monopoly of force at the service of another state within a binding legal framework and delegated its respective powers to that state. This is a fundamental change of the earlier practice of extradition, which had maintained political vetos for the participating states.

It is no surprise that over time the most intensive and intrusive forms of international police cooperation have emerged in the European Union. Although much of the cooperation that has developed in the EU leans towards path-dependency and unintended consequences, its member states explicitly accepted the far-reaching principle of mutual recognition in criminal matters during the Tampere European Council in 1999, which constituted the basis of later cooperative agreements in this field.

The cases analyzed in this paper show a trend towards increasing cooperation in police affairs with respect to their substantive scope and their institutional depth. States also move away from political de-

⁵⁰ E.g. Nadelmann, Fn. 12; Cyrille Fijnaut and Gary T. Marx, eds., *Undercover. Police Surveillance in Comparative Perspective* (Den Haag; London; Boston: Kluwer Law International, 1995) or James W. Sheptycki, *In Search of Transnational Policing. Towards a Sociology of Global Policing* (Aldershot: Ashgate, 2002).

cision-making where they are sovereign and have the widely accepted right to use discretion in the exercise of their monopoly of force, limited only by human rights norms. Over time, European states in particular have entered into a dense web of cooperation touching upon their monopoly of the legitimate use of force at the levels of legitimation, methods and authorization. Still, no monopoly of force beyond the nation state is in sight. At least in the OECD world, the nation state has no competitors over its monopoly of force. Does this mean that after the delegation of monetary sovereignty to the European Central Bank states keep at least their monopoly of force under exclusive control? This paper has argued that an overly strict application of a traditional Weberian concept of the state and a dichotomic view of the monopoly of force misses the point. Even though the monopoly of force has not been lost to supranational or private competitors, it is now strongly influenced by international institutions.

States are increasingly constrained in the usage of their police. International institutions define criteria for legitimate action and measures to be taken. Joint investigations formally preserve autonomy but break with a formal-legal taboo. The European Arrest Warrant requires a state to arrest a person on behalf of another state. In short, states have not lost their monopoly of force but in important respects are no longer free in their decision of how to use it.

How strong is this constraint? A realist would certainly argue that states enter into these kinds of agreements in an area as sensitive as police cooperation only as long as it is in their interest and break them as soon as their interests change. This extreme position is certainly correct but again misses the point. Joining broad and deep institutions of international police cooperation increases exit costs. Breaking such agreements would most likely entail repercussions such as a substantial loss of operational efficiency in fighting serious crime, most notably in a highly integrated area with highly permeable internal borders. It would also compromise domestic legal systems. The French ratification of the European Convention for the Suppression of Terrorism after it had largely been implemented by its courts illustrates the pressure of this factor.

Despite the initial assumption that international police cooperation would be weak, ad hoc, and expert-driven, it has strongly grown in scope and depth during the last decade. Within the EU in particular, it

is quite strong, stable, and supported by the political level. As a result, EU member states are no longer autonomous in the use of their monopoly of force but exercise it within a multi-level system of governance.

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