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From Trevi to Europol: Germany's role in the integration of EU police cooperation

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ABSTRACT

This article assesses Germany's role in the integration of EU police cooperation as a 'core state power' from its beginnings in the 1970s up to today. Relying on a mix of methods including archival research and expert interviews, it demonstrates how Germany has contributed to expanding the scope of EU policing and institutionalising the European Police Office Europol. Between kick-starting initial cooperation and the creation of Europol, German police and political elites pushed for a holistic European approach on internal security long before other member states. As of the 2000s, German political elites increasingly preferred cooperation of avant-garde groups of member states to deepen integration and became more hesitant in view of supranational advocacy post-Lisbon Treaty. However, the continued lobbying of police practitioners and the 'angst' of a wider public in the wake of terrorist attacks has ensured a quite stable German preference for a strong Europol and more integration.

KEYWORDS

Core state powers; EU internal security; EU police cooperation; Europol; state elites; mass publics

Introduction

The maintenance of internal security belongs to the key tasks and competences of states – a classical 'core state power' in the understanding of Freudlsperger and Jachtenfuchs (2021). European police cooperation has thus always been a highly sensitive field to integrate at EU level and only started in the 1970s as loose intergovernmental cooperation fully controlled by member states. By now, however, EU police cooperation has reached an entirely different quality in terms of form and extent of integration. EU decision-making in the field of internal security is no longer only in the hands of member states and limited to capacity-building. The European Police Office (Europol) has become a capable EU agency with own resources (more than 1,000 staff members) and over 40,000 international investigations a year.

This article traces the role of Germany in the European integration of police cooperation. In line with the wider interest of the Special Issue, it assesses the impact of state elites and mass publics (as channelled by mainstream parties) on the German integration preference. A longitudinal perspective traces Germany's influence from the establishment of the first European framework of police cooperation (Trevi) in the 1970s up to the

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current Europol Regulation adopted in 2016. Thereby, it seeks not only to understand and test the core state power concept. The analysis of Germany's preference throughout time also aims at complementing existing studies on the integration process in this field, which tend to focus on specific timeframes and integration milestones (e.g. Kietz 2015), institutions and instruments (e.g. Block 2011), or single issue areas and aspects (e.g. Wagner 2006).

In terms of structure, the research is separated into three parts. Its first section applies the concept of 'core state powers' to the field of EU police cooperation. The following two sections empirically test the concept by tracing the German preference throughout the integration process of EU police cooperation from its early stage in the 1970s to the late 1990s and then regarding its institutionalisation at EU level (from 2000 onwards). The work is based on qualitative document analysis of primary and secondary sources (including archival material from national and EU archives in Brussels, Koblenz, London and Paris) and on 46 semi-structured expert interviews with high-level practitioners from Germany and the EU context (for a detailed analysis on how the German case is embedded in a wider integration dynamic of EU police cooperation, see König 2019).

The 'core state power' concept and EU police cooperation

This section discusses the concept of core state powers for the policy domain of EU police cooperation.

Member states have had different preferences regarding the European integration process in this field and regarding the (eventual) transfer of executive competencies to the EU or Europol itself. Two visions of Europol competed from the very beginning, namely 'a more federal vision, supported by the German government which saw in Europol the potential to conduct European-wide data analysis and related activities; and an intergovernmental one, led by the British, which depicted the future Europol as a simple information exchange platform between national police forces' (Carrapico and Trauner 2013, 361). These competing visions implied different preferences on the mode of integration and on competencies. Freudlsperger and Jachtenfuchs (2021) conceptualise the mode of integration as the distinction between 'regulation and capacity building'. Competence relates to the question 'who should do it' (ibid): the national or supranational European level. Table 1 illustrates the different conceptual possibilities for EU police cooperation.

Table 1. Conceptualising different models of EU police cooperation.

		Capacity	
		Supranational level	National level
Regulation	Supranational actors	EU-regulated policing with European resources and competences (e.g. 'European FBI')	EU-regulated policing based on national resources (e.g. Schengen Convention, Prüm Treaty)
	National actors	state-controlled EU police agency (e.g. Europol Convention)	Transnational cooperation of national law enforcement bodies (e.g. Trevi Group)

Source: own interpretation of the CSP institutional design put forward by Freudlsperger and Jachtenfuchs (2021)

If member states have full control over regulation and capacities, the EU may only provide a platform for (loose) operational cooperation among national law enforcement authorities. In case of national control over supranational capacities, member states may support the integration of police cooperation (e.g. in the form of a European agency) but refrain from supranationalising competencies. This model allows for some refinement. Some states could condone the creation of Europol but see it primarily as a hub for information exchange and operational support. In this case, Europol may only have few capacities of its own and EU police cooperation would remain weakly regulated at EU level (the 1995 Europol Convention corresponds to this description). Others might see Europol evolve into a more competent and capable agency with a stronger regulatory role for the EU. Indeed, Europol’s capacity as police intelligence hub has grown substantially (see Figure 1). Yet, national capacities still exceed it significantly. For example, Europol’s budget amounted to €123 million in 2018, while the German Federal Criminal Police Office (BKA) had € 673.6 million at its disposal. In January 2019, 1,299 people worked at Europol, whereas the BKA counted 6,369 staff members.

A final option is the supranational control of national capacities. An example for this may be the police-related provisions of the Schengen Convention, which regulates certain conduct of national police authorities to avoid negative externalities of abolishing internal EU border controls (such as whether or not a police officer is permitted to continue a chase of a criminal suspect in a Schengen neighbour).

The integration of core state powers is believed to be influenced by either mass publics or state elites. ‘In principle, mass publics can be a source of demand for integration as well as an obstacle for integration’ (Genschel and Jachtenfuchs 2016). With regard to EU police cooperation, mass publics are likely to be more on the demand side. The EU’s added value for maintaining internal security of member states has rarely been questioned. A first Special Eurobarometer (290/2008) on the EU’s Area of Freedom, Security and Justice reflected high support for a stronger role of the EU in the fight against organised crime and terrorism. Eighty-five per cent of Germans agreed to more decision-making at EU level in these areas (the EU-27 average was 81%). Other Special Eurobarometers on internal security (371/2011), cybersecurity (404/2013), internet security (480/2019) and security more widely (464b/2017) confirmed this positive view of German and EU citizens.

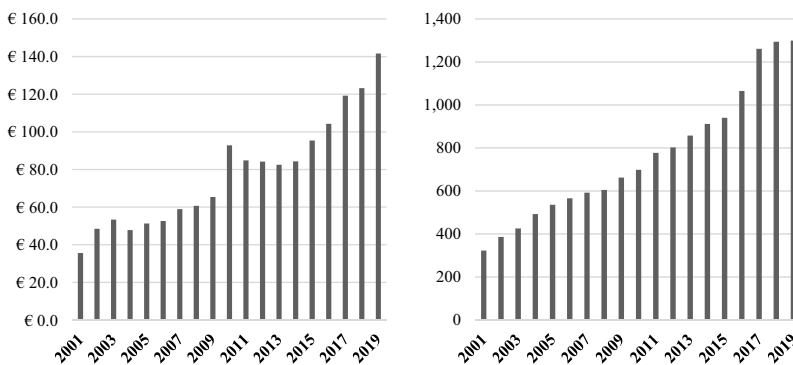


Figure 1. Europol budget and staff numbers. *Source:* own compilation, based on Europol statistics & data as well as (financial) annual reports (2001–2019).

According to the 2017 Special Eurobarometer (464b/2017), 92% of respondents believed their national authorities should share information with the authorities of other EU member states to better fight crime and terrorism. Challenges to internal security remained 'important' priorities for EU citizens, notably terrorism (95%) and organised crime (93%).

However, mass publics may play out differently in the field of internal security/police cooperation compared to other core state powers like monetary and fiscal policy (see Schoeller and Karlsson 2021, Howarth and Schild, 2021). EU police cooperation tends to operate under the radar of mass publics and party politics. The exception to this rule are terrorist attacks and salient (transnational) criminal cases (such as child abductions or cases of large-scale drug or human smuggling). In such cases, the public debate often focuses on the 'efficiency' of police work – or, to be more precise, on the police's inability to prevent it. Facing public pressure, domestic politicians (notably of mainstream parties) often call for more 'European' capacities and competencies to be better equipped in the future. In this vein, the terrorist attacks of 9/11 led to the European Arrest Warrant and a range of other policing instruments (Kaunert 2010). Overall, mass publics and mainstream parties tend to be supportive of (or care only little about) EU police cooperation. The way public incidents affect state elites to push for a stronger European role – or to demand a closure of national frontiers and a strengthening of national capacities – may be central for understanding the European integration of this core state power.

State elites in EU police cooperation include chancellors, ministers of the interior, senior officials and police officers. They are seen to act as rational actors, calculating costs and benefits of each integration step. A key rationale for the field of policing relates to the perceived or real vulnerabilities in terms of providing internal security. Put simply, elites do not want to have a competitive disadvantage vis-à-vis organised crime or terrorist groups in a border-free Schengen zone and a globalised world. While the scale effect of joint European policing constitutes a key benefit of integration in this core state power, the political 'costs' primarily relate to the potential loss of national control. As Freudlsperger and Jachtenfuchs (2021) emphasise, state elites do not want to become redundant (e.g. by making Europol more important than national law enforcement authorities). Whether this holds true and to what extent state elites shape integration preferences over mass publics are tested empirically in the following section, starting with the advent of EU police cooperation in the 1970s.

The beginnings of EU police cooperation: Germany as the driver

Two milestones before and after the Maastricht Treaty mark the beginning of European police cooperation: the establishment of the Trevi Group in 1976 and of Europol in 1999. Germany played a key role in the inception of both formats.

National control over national capacities

The Trevi Group was launched in 1976 as a semi-formal, intergovernmental platform outside the European Community (EC). Although it remained mostly limited to the fight against terrorism, it presented a first attempt at formalising internal security cooperation at the operational and political level. Within its loosely organised structure, high-level civil

servants jointly prepared (bi-)annual meetings of the ministers of Justice and Home Affairs (JHA), while several thematic working groups brought together representatives from domestic ministries, law enforcement, customs and security authorities (Knelangen 2001, 91 ff.).

Even before the Trevi proposal, Germany developed a preference to cooperate more closely on counterterrorism within the EC. Senior policymakers held the widespread belief that Germany's political rehabilitation in the international community was linked to the European integration process. This led interior minister Hans-Dietrich Genscher to develop a 'uniform security concept' for the European passport union and single market as early as 1971 (von Rottenburg 1974). In the wake of the terrorist attack at the 1972 Summer Olympics in Munich, he likewise instigated a discussion on a 'European conference on internal security' (Streicher & Bracht 1975). Ministries and parties at federal and local level quickly came to see comprehensive cooperation in this field as a necessary building block for a more European political union (German Federal Ministry of the Interior 1973). For example, the standing conference of state interior ministers (IMK) directly asked the federal interior minister to realise the European conference under discussion as soon as possible and envisioned the merit of a European regional police office, a 'Europol', in early 1973 (IMK 1973). Three working groups were subsequently established within European Political Cooperation (EPC) but failed to produce anything of substance and soon faded away (Merk 1973).

This experience shaped the German strategic approach to kickstarting cooperation in this area. Instead of launching another attempt with all EC members, German policymakers adopted a flexible, piecemeal strategy. Bilateral talks were initiated with France in 1974, later included the United Kingdom (UK), and were extended to all member states at the December meeting of European interior ministers in 1975 (German Federal Ministry of the Interior 1974; British Foreign and Commonwealth Office 1975). When the Trevi Group was launched at the first European conference on internal security in 1976, it presented the first stepping stone in the German piecemeal approach towards formalising and integrating European cooperation in all areas of internal security. Its semi-formal, inter-governmental structure outside the EC framework with a limited focus on terrorism may have been far removed from Germany's original preference. Nevertheless, it was an intermediate success that unified all member states to work together operationally.

Towards national control over a supranational capacity

While Trevi's working groups and functional scope were expanded throughout the 1980s, the Group remained informal and under national control. Some proposals, for instance by Italy and the UK, to deepen cooperation were only partially realised or limited in their scope. Only amidst rising pressure in relation to the European passport union and the internal market did member states take cooperation to the next level. Against the backdrop of the Maastricht Treaty negotiations, German chancellor Helmut Kohl presented a far-reaching proposal for a 'Central European Criminal Investigation Office' at the European Council meeting in June 1991. This preference was primarily shaped by the geopolitical experience of Germany at the centre of the emerging EU, which entailed heightened exposure to criminal spill-overs. By 1990, Germany had become a key transit and distribution country within Europe, especially in the area of drug trafficking. What is

more, Kohl's personal pro-European conviction was reinforced by direct lobbying from the BKA and the German Federal Intelligence Service (BND). Both supplied reports and strategic assessments that highlighted the threat from international drug cartels for Germany and the emerging internal market (interviews with senior officials from BKA and German interior ministry, February & April 2018).

However, the issue received less political salience in other member states or was targeted through national approaches rather than European strategies. It took another eight years before a watered-down version of Kohl's proposal was realised in 1999. Like the Trevi Group, this new Europol structure comprised all member states but remained outside the EU framework. Very much in contrast to Trevi, Europol was based on a legally binding intergovernmental treaty: the Europol Convention (1995). Albeit not clearly associated with the EU, the early Europol constituted an example of supranational capacity-building with action resources being created at the organisation's headquarters in The Hague. Regulatory control, by contrast, remained in the hands of the member states. According decisions at the Council or within Europol's Management Board were taken unanimously. Concerning the scope of the organisation's activities, the Convention stipulated as initial tasks the fight against 'unlawful drug trafficking, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings and motor vehicle crime' (Art. 2(2)). Europol's mandate was thus wider than the Trevi Group's focus on counterterrorism and included a long laundry list of future areas of involvement that allowed the agency to grow.

The process that led to the launch of Europol was not straightforward. From the inception of the Trevi Group, Germany advocated European police cooperation. However, its efforts encountered much resistance and yielded limited success (Lance 1977). Its ultimate shift to proposing the creation of a new body – Europol – in 1991 was informed by these difficulties and, yet again, the lobbying of state elites.

German high-level political and police circles became even more pro-European throughout the 1980s. Politically, building common institutions and norms within the EC had become linked to the idea of German reunification and international rehabilitation (König 2019, 140). Within the law enforcement community, centralisation and modernisation were likewise deemed necessary components of security governance, especially in view of Germany's central geographic location as transit country. As a consequence, the BKA was named central coordination body and various structural reforms strengthened the federal level (Busch et al. 1985, 115 ff.).

German political and police elites similarly promoted European cooperation. German policymakers pushed for the adoption of a 'Solemn Declaration on European Union' at the Stuttgart European Council meeting in June 1983, which acknowledged the internationalisation of organised crime and the need to cooperate at EC level (Siegele & Lümmen 1985). As joint European measures were still not achievable fast enough in the eyes of German state elites, flexible integration steps were taken as an interim solution. These included the 1984 Saarbrücken Agreement with France that abolished border checks and boosted police and customs cooperation. It was extended to Belgium, the Netherlands and Luxembourg through the 1985 Schengen Agreement.

High and growing interdependencies were likewise effectuating a gradual paradigm shift among EC member states. The continuous 'widening' and 'deepening' of the Community throughout the 1980s progressively produced functional spill-overs in the

area of internal security. European governments and their security authorities realised that free flows of goods, services and people offered opportunities for criminals and terrorists. Closer European coordination was needed because individual member states could no longer safeguard national security (König 2019, 122 ff.). In 1985, Italy proposed establishing a 'European Criminal Intelligence Office' to centralise existing cooperation structures (German Federal Ministry of the Interior 1985). The proposal was rejected, including by German policymakers who did not want to duplicate efforts within Trevi. Instead, they harnessed the Italian initiative to promote the widening of Trevi's functional scope as a compromise solution. Two additional working groups were created: one on organised crime and another to draw up 'balancing measures' for the internal market (Bunyan 1997, 9; Rupperecht 1985). By the late 1980s, the security implications of growing interdependencies had become especially visible in the skyrocketing number of drug users and cross-border trafficking cases (Morgan 2014, 24 ff.). At a meeting of the Trevi ministers in April 1989, the UK called for the creation of National Drug Intelligence Units in all member states and the launch of a European Drug Intelligence Unit as central coordination mechanism (Knelangen 2001, 197). Germany was rather supportive of the initiative, although the loosely organised, operations-oriented British proposal did not match the German preference for long-term, institutionalised cooperation. Once again, however, various other governments were hesitant towards capacity-building at European level but agreed to realise the National Drug Intelligence Units embedded in national authorities across the Community.

These developments laid the foundation for Germany to finally assert its strong integration preference. In 1991, German chancellor Helmut Kohl presented his vision for a 'European FBI' to the European Council (interview with senior BKA official, April 2018). Drawing on the Italian and the British initiatives, he proposed the creation of a Central European Criminal Investigation Office. By then, German national elites had already been vividly discussing the possibility of establishing a 'Europol'. In their view, the agency would eventually have executive powers. Kohl himself had notified the 1988 European Council in Hannover of these deliberations regarding an 'FBI-like' structure at European level. Interior minister Wolfgang Schäuble openly called for such a central European police body in 1990 (Schäuble 1990). This thought was extremely contentious among the European partners (Storbeck 2016, 22).

Consequently, Germany had to concede once again. Instead of a fully-fledged European police office with executive powers, Europol was launched as an intergovernmental support body outside the EC framework. Although German policymakers had hoped for a quick launch and broad topical involvement, Europol was only operational by 1999 and legally limited to a few issue areas. Even to reach this outcome, Germany had to compromise. Soon after Kohl's Europol proposal, Germany effectively merged its initiative with the British project and agreed to first set up a Europol Drugs Unit (EDU) as a predecessor organisation (under German leadership). The EDU commenced activities in 1994 but was regarded by German policymakers only as a 'pre-stage for a European police unit with eventually executive powers for the effective fight against internationally oriented drug trafficking' (Busch 1995, 337). The unit was tasked with supporting national competent authorities in criminal investigations. However, information would initially still be shared through domestic systems. EDU was thus a functionally constrained body, but Germany hoped it would act as a door-opener for deeper integration.

This was perhaps not achieved quite yet when the Europol Convention was signed in 1995, stipulating Europol as intergovernmental, non-EU organisation with a rather limited, relatively weak mandate. Yet, German state elites had succeeded in taking European police cooperation from its informal, ad-hoc setup to a formal setting with legally binding rules and a broader scope of action. The launch of Europol in 1999 was hence the culmination of a gradual institutionalisation of European law enforcement cooperation. It established a permanent support capacity above the national level with resources of its own and headquarters in The Hague.

Europol in the 2000s: a more ambiguous role for Germany

In the 2000s, EU police cooperation gained political momentum. Whereas the development of Trevi and the Europol Convention had taken three decades, further integration steps were achieved in a fraction of the time. This section assesses the role of Germany in the adoption of two additional milestones: the Europol Council Decision (ECD) and the Europol Regulation. In contrast to the hesitant intergovernmental cooperation before 2000, they reflect a new quality of integration and a shift in preferences among EU member states. Both the Council Decision and Regulation have built capacities at the supranational level and strengthened the role of EU actors.

Towards the supranational regulation of national capacities

Europol had barely been in operation, when 9/11 occurred in the United States in 2001. In the face of a growing scale and transnationalisation of security threats, Germany continued pushing for deeper integration. Nevertheless, member states initially remained reluctant to integrate further in the area of police cooperation. Instead, they preferred 'patching up' the existing intergovernmental structure and opted for the adoption of three amending protocols to the Europol Convention between 2000 and 2003. These were intended to widen Europol's functional scope to the area of money laundering (I), expand its powers to initiate and participate in Joint Investigation Teams (JITs) in the member states (II), and name Europol the 'focal point of European police cooperation' (III) (Protocols I, II & III, Europol Convention). Yet, the rigidity, limited scope and lengthy ratification process of these legal instruments inhibited the generation of satisfactory operational results at EU level let alone building an effective supranational capacity. By 2006, none of the protocols had entered into force yet (European Commission 2006, 2). European governments were in limbo: caught between the need to work together in view of the transnationalisation of crime and terrorism on the one hand, and an urge to preserve sovereignty in the governance of this core state power (Europol 2016, 18 &, 53).

In 2004 and 2005, two terrorist attacks occurred in Madrid and London, renewing a sense of urgency at EU level. This dynamic culminated in the 2006 proposal to formally transfer Europol to the EU's legal framework and the subsequent adoption of the Council Decision in 2009. Although the ECD presented a 'delicate balance between continuity and change' in EU police cooperation, it significantly centralised capacity-building and strengthened the role of supranational actors (Europol 2016, 53). It transformed Europol from a member states-controlled intergovernmental organisation outside the EU framework into a supranational body with legal personality, including some leeway to act

autonomously (Council Decision 2009/371/JHA). The Council Decision expanded Europol's mandate to all issue areas of serious organised crime affecting two or more European countries, gave it agenda-setting powers in the definition of its own strategy and equipped it with initiation and participation rights in joint criminal investigations (Art. 4 & 5). The new legal framework gave EU actors like the Commission a role in Europol's strategic oversight and replaced unanimity rules with two-thirds majority voting in the Management Board (Art. 37 & 42).

Yet, Germany started to pursue a strategy of differentiated integration. The trigger for doing so were not only the tedious negotiations on amending Europol's protocols and adopting the Council Decision but also the deliberations on and the (ultimately failed) ratification of the Constitutional Treaty, which highlighted the challenge of bringing together all EU member states. German policymakers signed police agreements with Switzerland (1999), Austria (2003) and the Netherlands (2005) that were driven by operational demands voiced by domestic police officials (Schober 2017). In 2003, interior minister Otto Schily initiated talks with France and the Benelux countries to discuss a multilateral treaty formalising cooperation in the areas of terrorism, transnational crime and illegal migration (Kietz and Maurer 2006, 206). In 2005, an avant-garde group of seven member states signed the Prüm Convention. However, its preamble already foresaw the integration into the EU framework within three years (Preamble & Art. 1(4) Prüm Treaty 2005). The Convention was transposed into EU law by the 'Prüm Decisions' in 2008, effectively reinforcing the emergence of a supranational capacity (Council Decisions 2008/615/JHA & 2008/616/JHA). The Prüm Convention's decentralised intergovernmental structure had relied on national capacities. Through the Prüm Decisions, the coordination and management of information exchange, including financial resources and rule-making, were shifted to the EU level, with a 24/7 Prüm helpdesk established permanently at Europol (cf. Europol 2011).

Although Germany was not similarly at the forefront of the negotiations on replacing the Europol Convention with a Council Decision, it mattered as an integration advocate. In this context, mass publics and elites strongly shaped the preferences of Germany and other member states. On the one hand, the Madrid and London bombings moved the area of internal security into the public eye. Both attacks revealed international connections across the EU and thus created significant political momentum and pressure on European governments to improve cooperation (König 2019, 214–216). On the other hand, practitioners and politicians increasingly voiced a need to reform existing structures, not only in the field of JHA but within the EU as a whole – a consensus that ultimately resulted in the Lisbon Treaty (ibid, 213). Officials from the European Commission as well as Europol representatives seized the moment to shift state preferences towards strengthening central coordination at the EU level. Patching up the shortcomings of the rigid intergovernmental Europol Convention through legal protocols had proven unsuccessful, they argued; after all, police cooperation had been unable to prevent two major terrorist attacks on European soil.

This argument fitted Germany's vision of long-term integration even if the main push for supporting the integration of Europol into the EU framework came from the European Commission. It now had the legal competence to propose the ECD and get actively involved in the negotiations, with Germany primarily supporting the Commission's efforts. The ECD entered into force on 1 January 2010. It finally moved European police

cooperation into the supranational domain and bolstered up the role of Europol as the EU's official law enforcement agency as well as of the Commission in its governance and rule-making.

Towards supranational policing and regulatory capacity

Six years after the Council Decision, EU member states adopted yet another legal framework in May 2016: the Europol Regulation. It further limited the regulatory power of governments by shifting decision-making in Europol's Management Board to simple majority. It equipped Europol with an (independent) right to initiate criminal investigations and operational cooperation. Most importantly, the Regulation demonstrated that EU police cooperation is no longer single-handedly driven by member states (see [Figure 2](#) on the cases initiated at Europol). In the words of a senior official: 'Operationally, Europol remains largely driven by the Member States and close to developments on the ground. Institutionally, it is developing more and more towards the EU and a certain autonomy' (interview with senior Europol official, June 2018).

Why did they agree to this integration step? Many ideas proposed by the Commission were a continuation of the institutionalisation process of previous years. The Regulation neither took the agency's governance completely out of the hands of the member states, nor did it transform Europol into a 'European FBI'. Also, member states had already agreed to the adoption of a new regulation in the negotiations on the Lisbon Treaty (2009). Yet, the Commission used this early political commitment to push for far-reaching competencies and capacities for Europol. Member states struggled to argue against the Commission's plan considering that domestic policymakers and security authorities had long argued in favour of more European cooperation and had highlighted the practical merit of central coordination. Germany's preference and role were ambivalent. Although Germany had itself continuously advocated deeper (albeit flexible) integration in the early 2000s, it became more hesitant in view of a spiralling integration dynamic and supranational advocacy post-Lisbon (König 2019, 238). The examples of the Europol management

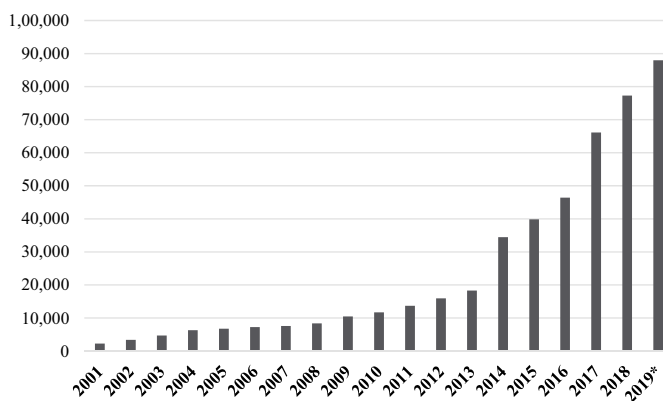


Figure 2. Cases initiated at Europol (2001–2019). *Source:* own compilation, based on Europol annual reports and reviews (2011–2019).

board and the creation of a European Counter-terrorism Centre at Europol illustrate this argument in more detail.

The European Commission presented a first draft regulation for Europol in 2013. It reflected an ambitious integration agenda (European Commission 2013). While member states rejected multiple bolder proposals, Commission officials were able to assert others, including a role for the Commission in managing the agency's external affairs, overseeing its budget and compliance with EU rules, and in the development of its strategy and priorities (Europol 2017). Among the rejected points was a suggestion to downsize Europol's Management Board in urgent cases, comprising only the Board's chairperson and three other members as well as one Commission representative (European Commission 2013, 10). This proposal was opposed, especially by Germany, which wanted equal representation at EU level, including its federal states (König 2019, 295). The negotiations between the Commission and EU member states continued to pose a challenge. They were concluded in May 2016, partially due to the influence of mass publics.

The terrorist attacks in Paris in January 2015 allowed EU-level actors to step up their entrepreneurship. Among others, the EU Counter-Terrorism Coordinator suggested the expansion of Europol's capabilities to monitor extremist content online as well as the possible 'creation of a European Counter-terrorism Centre [ECTC] at Europol' (EU Counter-Terrorism Coordinator 2015). Driven primarily by the UK and domestic input from police representatives, member states agreed to develop an EU Internet Referral Unit at Europol in March (Council of the European Union 2015, 4). Whereas one might expect German policymakers to have welcome the Counter-Terrorism Coordinator's proposals, they were in fact opposed (Haber 2015, 2). German officials held reservations regarding the degree of national regulatory control and data protection. They were especially suspicious of the initiative's supranational origin as a potential attempt to gain a foothold in the previously strictly intergovernmental areas of counterterrorism and intelligence – still largely unchallenged core states powers.

EU actors stepped up their advocacy in view of the reluctance of Germany and others. The Commission continued to table the ECTC as agenda item throughout 2015 and explicitly leveraged domestic mass publics. In its 'European Agenda on Security', the Commission for instance emphasised that '[c]itizens and Member States expect the EU's support in fighting terrorism and radicalisation and facilitating coordination and cooperation between relevant authorities' (European Commission 2015, 13). The November terrorist attacks in Paris provided an additional strong argument for the Commission. Europol also actively pushed member states to ensure that the new regulation would equip it with sufficient clout to effectively counter such threats (Europol 2015, 16). While Germany, like many other member states, limited itself to a general call for the further development of EU police cooperation and particularly Europol (Jones 2015), France and the Luxembourg Presidency demanded the quick realisation of the ECTC proposal (Presidency & EU Counter-Terrorism Coordinator 2015, 3). The centre was launched on 1 January 2016. Nevertheless, the attitude of German policymakers would only change later – to even favour expanding the ECTC – following the 2016 Berlin Christmas market attack and renewed lobbying from BKA officials (Busch and Monroy 2017, 4).

The example of the ECTC thus demonstrates that the will to further integrate had abated among German political elites by 2015. This change had gradually emerged since the late 2000s. In part, it can be attributed to the fact that the overarching integration goals of German political elites from the 1990s and early 2000s were achieved through creating and institutionalising Europol. The further supranationalisation of EU police cooperation did not receive similarly unconditioned support. A second factor mattered in this regard. The priorities of government officials largely shifted to the financial and economic sector – and the safeguarding of the Eurozone – after 2008. Migration issues started to top other agenda points, not only but in particular since the 2015 migration crisis. Germany had contentious discussions with EU partners in the context of both the Euro- and migration crises. The internal security field became comparatively less of a priority for policymakers. Still, functional pressure for more police cooperation and support for supranational solutions remained high at the level of police officers and practitioners. The impact of a terrorist attack and ensuing pressure from mass publics acted as a window of opportunity in the concrete example of Europol's Counter-Terrorism Centre. It allowed to temporarily reinforce the preference of German top policymakers to once again advocate for a stronger EU role.

Conclusion

This article has analysed Germany's role in the integration of EU police cooperation from its beginning in the 1970s to the adoption of the Europol Regulation in 2016. It has been argued that Germany has been a motor in launching EU police cooperation. German state elites were largely pro-integration and strived to enhance national policing capabilities in view of an internationalisation of terrorism and crime. High-profile events, most notably the kidnapping of the Israeli team by Palestinian terrorists at the 1972 Munich Olympic Games, contributed to a certain public anxiety and allowed for the emergence of a 'permissive consensus' to take first albeit hesitant steps towards integrating this core state power. In the Trevi Group, national capabilities remained under national control, with supranational EU institutions playing a negligible role. Although 1970's European police cooperation remained rather loose and cautious, it kick-started a gradual process of integration.

As of the 1980s, German policymakers pushed for deeper integration. Other member states did not share this vision. Germany therefore started to cooperate more closely with like-minded countries on issues such as abolishing internal border controls – a strategy of differentiated integration that became a feature of the German approach on European policing. In 1991, German chancellor Helmut Kohl and his interior minister suggested the creation of an 'FBI-like' structure at European level. However, they had to concede launching Europol as a mere intergovernmental support body outside the EC framework. After lengthy negotiations, it became operational in 1999 with its competencies limited to few areas of crime-fighting and counterterrorism. Overall, Germany's strong integration preference in the development from Trevi to the 1995 Europol Convention was strongly shaped by German high-level political and police circles. Next to a cross-party belief in the linkage between European integration and Germany's political rehabilitation and reunification, they were primarily driven by functional pressure from growing interdependencies within the Community (most notably through the Schengen project or the internal

market), which Germany experienced more so than others due to its central geographic location and large size.

The dynamic of integration changed in the 2000s. The terrorist attacks of 9/11 created a sense of crisis and vulnerability among the wider public yet the EU integration of police cooperation remained contentious. Concerned about sovereignty prerogatives, several member states preferred to supplement Europol's intergovernmental convention with legal protocols, instead of supporting supranationalisation in the field of policing. In view of the tedious negotiations at EU level and slow progress, Germany increasingly pursued differentiated integration. Examples include bilateral policing agreements with its neighbours and, in 2005, the Prüm Convention as an *avant-garde* project to data exchange on terrorism, transnational crime and illegal migration. It took until 2009 before an EU-wide solution was reached in the form of a Council Decision that transformed Europol into an official EU body with legal personality and some leeway to launch autonomous action.

Another milestone in the integration of EU police cooperation was the Europol Regulation adopted in 2016. The Commission strongly advocated this step, with the German position being more ambivalent. While staying (rhetorically) committed to deeper integration, German elites were keen to maintain flexibility in policing issues and did no longer subscribe to a spiralling integration dynamic. Ultimately, the terrorist attacks in Paris in 2015 and Berlin in 2016 provided a window of opportunity for German senior police officials to lobby (again) for enhancing EU police cooperation. Benefitting from raised salience among mass publics, they succeeded in (re-)convincing the German government to vividly support the improvement of supranational capacities including the launch of a European Counter-Terrorism Centre at Europol.

What is the overall picture? In terms of vertical integration, German state elites initially exceeded the ambitions of other governments – favouring capacity-building over regulation and supranational competence over purely national control. Despite strong asymmetric interdependence, German state elites right away preferred building an – albeit loose – capacity at European level over supranational regulation. In the wake of crisis events, German mass publics regarded supranational capacity-building in this domain as justifiable or even desirable.

While Germany has historically been *the* key actor in promoting the integration of European police cooperation, its role has shifted in the post-Lisbon era. It is no longer the motor that it used to be, yet it does not act as a brake either. German political elites were absorbed in different EU crises (notably the Euro- and migration crises) and no longer regarded integration in EU police cooperation as a political priority. Instead, they attributed increasing importance to values such as European flexibility and domestic autonomy. In the 2000s, the integration preferences of Germany and its European partners thus began to converge more thanks to the gradual retreat – at least officially – of Germany from making far-reaching integration demands. Nonetheless, Germany has retained an overall stable preference for more integration within EU police cooperation. The cost-benefit calculations of governmental actors are regularly affected by the advocacy of police officers and practitioners for a stronger Europol as well as by the 'angst' of a wider public in the wake of terrorist attacks.

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References

- Block, L. 2011. *From Politics to Policing: The Rationality Gap in EU Council Policy-making*. The Hague: Eleven International.
- British Foreign and Commonwealth Office. 1975. *Record of an Informal Discussion between the Foreign Ministers of the European Community at the Villa Reale di Marlia, Lucca on 18 and 19 October, 1975*. London: National Archives of the UK (TNA). (FCO 30/2614)
- Bunyan, T. 1997. "Chapter 1: Structures, Work Programmes and the Trevi 'Acquis'." In *From Trevi to Maastricht - Key Texts on Justice and Home Affairs in the European Union: 1976–1993*, Vol. 1, edited by T. Bunyan, 9–31. London: Statewatch.
- Busch, H. 1995. *Grenzenlose Polizei? Neue Grenzen und polizeiliche Zusammenarbeit in Europa*. Münster: Westfälisches Dampfboot.
- Busch, H., A. Funk, U. Kauß, W. D. Narr, and F. Werkentin. 1985. *Die Polizei in der Bundesrepublik*. Frankfurt; New York: Campus.
- Busch, H., and M. Monroy. 2017. *Who Drives EU Counter-terrorism? On the Legislation of the European Union*. Translated by V. Langer. London: Statewatch.
- Carrapico, H., and F. Trauner. 2013. "Europol and Its Impact on EU Policy-making on Organised Crime." *Perspectives on European Politics and Society* 14 (3): 357–371. doi:10.1080/15705854.2013.817804.
- "Council Act (2000/C 358/01) of 30 November 2000 Drawing up on the Basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention) of a Protocol Amending Article 2 and the Annex to that Convention. (2000), OJ C 358 of 13.12.2000."
- "Council Act (2002/C 312/01) of 28 November 2002 Drawing up a Protocol Amending the Convention on the Establishment of a European Police Office (Europol Convention), OJ C 312 of 16.12.2002."
- "Council Act (2004/C 2/01) of 27 November 2003 Drawing Up, on the Basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), OJ C 2 of 6.1.2004."
- "Council Act of 26 July 1995 Drawing up the Convention Based on Article K.3 Of the Treaty on European Union, on the Establishment of a European Police Office (Europol Convention), 95/C 316/01; OJ C 316, Brussels."

- "Council Decision 2008/615/JHA of 23 June 2008 on the Stepping up of Cross-border Cooperation, Particularly in Combating Terrorism and Cross-border Crime. OJ L 210 of 6.8.2008."
- "Council Decision 2008/616/JHA of 23 June 2008 on the Implementation of Decision 2008/615/JHA on the Stepping up of Cross-border Cooperation, Particularly in Combating Terrorism and Cross-border Crime. OJ L 210 of 6.8.2008."
- "Council Decision of 6 April 2009 Establishing the European Police Office (Europol) (2009/371/JHA). OJ L 121 of 15.5.2009."
- "Council of the European Union. 2015. Council Document 6606/15 on the 'Fight against Terrorism: Follow-up to the Statement of 12 February by the Members of the European Council and to the Riga Joint Statement of 29 January by the Ministers of Justice and Home Affairs of the EU - Implementation of Measures', 2 March 2015."
- EU Counter-Terrorism Coordinator. 2015. "EU CTC Input for the Preparation of the Informal Meeting of Justice and Home Affairs Ministers in Riga on 29 January 2015, Council Doc. DS 1035/15."
- European Commission. 2006. "Proposal for a Council Decision Establishing the European Police Office (EUROPOL), and Explanatory Memorandum, COM(2006) 817 Final, Brussels."
- European Commission. 2013. "Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and Repealing Decisions 2009/371/JHA and 2005/681/JHA, COM(2013) 173 Final of 27 March 2013."
- European Commission. 2015. "Communication from the Commission 'The European Agenda on Security', COM(2015) 185 Final of 28 April 2015."
- European Commission. 2017. *'Europeans' Attitudes Towards Security. Special Eurobarometer 464b*. Brussels: European Commission.
- Europol. 2011. *Europol Work Programme 2012*. The Hague: Europol. August 9.
- Europol. 2015. "Enhancing Counter Terrorism Capabilities at EU Level: European Counter Terrorism Centre (ECTC) at Europol and Counter Terrorism Related Information Sharing, Council Doc. 14244/15, 23 November 2015."
- Europol. 2016. *1998-2016 - Looking Back, Moving Forward: One Hundred Meetings of the Europol Management Board*. Luxembourg: Publications Office of the European Union.
- Europol. 2017. "Europol's New Regulation." Accessed 15 April 2019. <https://www.europol.europa.eu/newsroom/news/europols-new-regulation>
- Freudlsperger, C. & M. Jachtenfuchs. 2021. „A member state like any other? Germany and the European integration of core state powers.,, *Journal of European Integration* 43(2), doi:10.1080/07036337.2021.1877695.
- Genschel, P., and M. Jachtenfuchs. 2016. "More Integration, Less Federation: The European Integration of Core State Powers." *Journal of European Public Policy* 23 (1): 42–59. doi:10.1080/13501763.2015.1055782.
- German Federal Ministry of the Interior. 1973. *Internal memo on 'Vorbereitung einer Europäischen Konferenz über Innere Sicherheit; Ergebnisvermerk über eine Besprechung am 16. Mai 1973 im BMI*. German Federal Archives, BArch B 106/39571, 12 June.
- German Federal Ministry of the Interior. 1974. *Internal memo: 'Ergebnisvermerk über eine Besprechung mit Ressorts, BfV, BKA und Referaten im BMI am 15. August 1974'*. German Federal Archives, BArch B 106/39571 of 23 August 1974.
- German Federal Ministry of the Interior. 1985. *Sitzung des TREVI-Ausschusses der Hohen Beamten in Rom am 31. Mai 1985; Vorbereitung des Ministertreffens – Ausweitung der TREVI-Zuständigkeit auf schwere Straftaten und das internationale organisierte Verbrechen*. German Federal Archives, BArch B 106/106819.
- Haber, E. 2015. *Druckssache 18/3910 - Kleine Anfrage des Abgeordneten Andrej Hunko u.a. und der Fraktion DIE LINKE: Maßnahmen der EU-Polizeiagentur Europol hinsichtlich ausländischer Kämpfer*. Berlin: German Federal Ministry of the Interior.
- Howarth, D. & J. Schild. 2021. „Nein to 'Transfer Union': The German Brake to the Construction of a European Union Fiscal Capacity.,, *Journal of European Integration* 43(2). doi:10.1080/07036337.2021.1877690.
- IMK. 1973. *Sitzung am 30. November 1973 in Bonn (Beschlussprotokoll und Schriftwechsel)*. German Federal Archives. BArch B 106/39856 of 30 November 1973.

- Jones, C. 2015. *Briefing - Counter-terrorism: What the EU Is Discussing after the Paris Attacks*. London: Statewatch.
- Kaunert, C. 2010. *European Internal Security: Towards Supranational Governance?* Manchester: Manchester University Press.
- Kietz, D. 2015. "Policy Making in Policing and Criminal Justice under Lisbon Rules: More Democratic, More Complex, and More Conflict-prone." In *Police Cooperation in the European Union under the Treaty of Lisbon*, edited by H. Aden, 49–64. Baden-Baden: Nomos.
- Kietz, D., and A. Maurer. 2006. "Der Vertrag von Prüm: Vertiefungs- und Fragmentierungstendenzen in der Justiz- und Innenpolitik der EU." *Integration* 29 (3): 201–212.
- Knelangen, W. 2001. *Das Politikfeld innere Sicherheit im Integrationsprozess: die Entstehung einer europäischen Politik der inneren Sicherheit*. Opladen: Leske + Budrich.
- König, F. 2019. "EU Police Cooperation (1976-2016): State Preferences in the Context of Differentiated Integration." PhD Thesis. Hertie School of Governance, Berlin.
- Lance, A. R. 1977. *Letter from A.R. Lance (European Integration Department, FCO) to Mr MacLeod, concerning "Community Competence"*. National Archives of the UK (TNA). FCO 76/1751.
- Marotta, E. 2016. "... on Europol's Prehistory." In *Europol, 1998–2016 - Looking Back, Moving Forward: One Hundred Meetings of the Europol Management Board*, edited by Europol, 24–26. Luxembourg: Publications Office of the European Union.
- Merk. 1973. *Draft invitation letter to BfV and BKA for a meeting on 'Vorbereitung einer Europäischen Konferenz über innere Sicherheit'*. German Federal Archives. BArch B 106/39571 of 25 April 1973.
- Morgan, N. 2014. *The Heroin Epidemic of the 1980s and 1990s and Its Effect on Crime Trends - Then and Now (Home Office Research Report No. 79)*. London: Home Office.
- Paoli, S. 2017. "France and the Origins of Schengen: An Interpretation." In *Peoples and Borders: Seventy Years of Migration in Europe, from Europe, to Europe [1945-2015]*, edited by E. Calandri, S. Paoli, and A. Varsori, 255–280. Baden-Baden: Nomos.
- Prüm Treaty. 2005. "Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the Stepping up of Cross-border Cooperation, Particularly in Combating Terrorism, Cross-border Crime and Illegal Migration, 27 May 2005."
- Rupperecht 1985. *Internal memo concerning 'Zusammenarbeit im Rahmen der EPZ; hier: Britische Initiative zum Thema Luftsicherheit; Bezug: Ressortbesprechung im Auswärtigen Amt am 20. August 1985'*. German Federal Archives. BArch B 106/106844, August 30.
- Schäuble, W. 1990. "Europa ohne Grenzen - eine sichere Gemeinschaft." *Europa-Archiv* 6: 203–212.
- Schober, K. 2017. *Europäische Polizeizusammenarbeit zwischen TREVİ und Prüm. Mehr Sicherheit auf Kosten von Freiheit und Recht?* Heidelberg: C.F. Müller.
- Schoeller, M.G. & O. Karlsson. 2021. „Championing the 'German Model'? Germany's Consistent Preferences on the Integration of Fiscal Constraints.“ *Journal of European Integration* 43(2), doi:10.1080/07036337.2021.1877697.
- Siegele & Lümmlen. 1985. *Internal memo concerning "Sitzung des Arbeitskreises II der Arbeitsgemeinschaft der Innenministerien der Bundesländer am 14./15. März 1985"*. Koblenz: German Federal Archives. B/106/106819 of 11 March 1985.
- Storbeck, J. 2016. "... on Europol's First Years." In *Europol, 1998–2016 - Looking Back, Moving Forward: One Hundred Meetings of the Europol Management Board*, edited by Europol, 21–24. Luxembourg: Publications Office of the European Union.
- Streicher & Bracht. 1975. *Internal Memo concerning 'Europäische Konferenz für Innere Sicherheit; hier: Britische Initiative im Rahmen der Europäischen Politischen Zusammenarbeit'*. Koblenz: German Federal Archives. BArch B 106/78829 of 4 November 1975.
- von Rottenburg. 1974. *Communication from the German Minister of the Interior concerning 'Probleme im Hinblick auf den Abbau grenzpolizeilicher Kontrollen an den innergemeinschaftlichen Grenzen zwischen den Mitgliedsstaaten der EG; hier: Sachstandsbericht'*. Koblenz: German Federal Archives. BArch B 106/78851 of 6 March 1974.
- Wagner, W. 2006. "Guarding the Guards. The European Convention and the Communitization of Police Co-operation." *Journal of European Public Policy* 13 (8): 1230–1246. doi:10.1080/13501760600999540.