

The need for the Netherlands and Belgium to further integrate police cooperation

An example for Europe?

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Abstract

The primary purpose of this study is to investigate the possibilities for improvement of bilateral police cooperation between Belgium and the Netherlands within the existing Benelux Police Treaty. Practical examples show there is a great deal of need in day-to-day police practice to further integrate police cooperation. Although a great deal is already possible on the grounds of the 2004 Senningen Treaty and the subsequent Prüm Convention, there is still a lack of broader authorizations, primarily in the area of cross-border criminal investigation. Since the Benelux Police Treaty will be revised in 2017, the sphere of operation can be expanded. This study shows that it is the intention of the Belgian as well as the Dutch authorities to achieve significant progress. Recommendations in the context of the treaty revision include scrapping small-scale police assistance in minor offences and mutual access to police registers and judicial documentation. In the future, Belgium and the Netherlands can draw up joint objectives on the basis of each side's crime problems. Examples are joint analyses in areas such as border zone drug criminals, terrorism, mobile banditry or cocaine smuggling. The treaty revision referred to appears to be the perfect opportunity for both countries to find the limits and to take a truly innovative step in cross border police cooperation in Europe.

Keywords

cross-border police cooperation, Belgium, the Netherlands

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Introduction

As a result of globalization, borders are increasingly fading or even disappearing altogether. This is occurring not only in economic, political or cultural areas but just as much in the area of crime. Cybercrime is perhaps the best example of borderless crime, due to its virtual nature. However, even existing country borders do not stop criminals from carrying out their malicious practices; on the contrary, they use the border to stay out of reach of investigative agencies. This is something police officers operating in the border area between Belgium and the Netherlands experience on a daily basis.

Since the Schengen Agreement came into effect in 1985, the free movement of people and goods between these countries has been possible, as is the case between the other 24 Schengen countries within the European Union (EU).¹ The national border between these two Benelux countries is approximately 450 km long, and the security issues on both sides of the border are complex and topical. Incidents occur daily in which the Belgian or Dutch police have to act across the border in the context of maintaining public order, controls or in the context of criminal investigation. Police officers are regularly confronted with a number of practical and legal issues in this context. Although a great deal is already possible on the grounds of the 2004 Senningen Treaty² and the subsequent Prüm Convention³ which came into effect a year later, there is a lack of broader authorizations, primarily in the area of cross-border criminal investigation. This means that the police usually have to fall back on existing cooperation options in the context of formal assistance.

In order to be able to act more quickly and adequately in future against cross-border crime, this treaty, also known as the Benelux Police Treaty, will be revised in 2017. The need to improve police cooperation is an immediate motive and an opportune moment for this position article, which was written on the instructions of Hans Vissers, chief of police of the Zeeland-West Brabant unit. He is Belgium portfolio holder on behalf of the National Police and is closely involved in this treaty revision.

Working across the border: Two practical examples

Example 1

A Belgian is involved in a traffic accident in the Netherlands. The Dutch police start an investigation and, by mistake, enter the wrong registration number for the Belgian car. As the policeman has the contact details of the Belgian, he sends him an email and asks him to let him know the correct registration number.

Example 2

In the context of a Belgian police investigation, the police want to interview the owner of a Dutch car rental company. The only question is whether the suspect rented a car from this company. The Belgian police send a request for assistance to the Dutch Public Prosecution Department. After 2 months, the interview took place in the Netherlands and the police returned the answer to the Belgian authorities.

1. Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.
2. Treaty of 8 June 2004 between the Kingdom of the Netherlands, the Kingdom of Belgium and the Grand Duchy of Luxembourg concerning cross-border policing. Treaty Series 2005, 35. This treaty was renewed in 2008 and 2012.
3. Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the Republic of France, 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, agreed in Prüm, of 27 May 2005, BS 30 March 2007, also referred to as Schengen III.

The method used by the police in the first example appears wholly legitimate but nevertheless the actions could have unwanted legal consequences. After all, strictly speaking a breach has taken place *in* the principle of sovereignty of both countries.⁴ And, while social media is currently an accepted medium in society and therefore also for the police, in this situation the police should have used the formal procedure and submitted a request for assistance.⁵ The second example illustrates the relatively long period of time that can occur in processing a simple request for legal assistance.

The examples above are just two of the many in which taking adequate and fast action in the territory of another country is limited by laws and regulations. There is a certain inconsistency in this; on the one hand, the performance of simple investigative actions on one's own initiative in relatively light investigative cases, such as those indicated above, is not permitted. On the other hand, it *is* possible to perform much more far-reaching investigative actions without prior permission in some situations. This pertains to authorizations such as cross-border observation and pursuits when these arise from other police duties in the context of maintaining public order, control authorizations or the provision of assistance.⁶ This discrepancy plays into the hands of criminals. They can benefit greatly from the 'open borders', while the authorizations of the police and the justice system are to a large extent limited to the country's own territory. This means that the police – literally and metaphorically – lag behind in the investigation of simple cases.

Question

The question that is central to this article is which factors impede cross-border police cooperation between Belgium and the Netherlands, and how this bilateral police cooperation can be improved within the existing Benelux Police Treaty. The term police cooperation is defined in this article as the cooperation between the Belgian and Dutch police and justice authorities in cross-border criminal investigations.⁷

The conclusion is that this cooperation between the Netherlands and Belgium must be improved by expanding the scope of application of the current Benelux Treaty on Police Cooperation. The opportunity for this will arise with the pending revision of this treaty. After all, strict adherence to national borders and sovereignty is no longer appropriate in an era in which there is a major need adequately to tackle cross-border crime. Partly in view of the shifting effects towards Belgium that

4. This means that a state is authorized to perform investigative actions in its own territory, but not in a foreign territory. On the grounds of this principle, police officers are not permitted to exercise powers abroad.

5. See Article 552h, second paragraph Dutch Code of Criminal Procedure: requests for the performance – whether jointly or not – of investigative actions or the provision of cooperation therein, the sending of documents, files or pieces of evidence for the provision of information, or the service or issue of documents or the giving of notices or notifications to third parties.

6. This can include situations in which crimes are being committed at that moment, or observations which unexpectedly cross the border.

7. The term criminal investigations is deemed to mean investigations in which actual or suspected criminal offences are being investigated proactively or reactively, whether or not with one or more known suspects, under the authority of a judicial authority, with the objective of taking criminal procedure law decisions H. Nelen, M. Peters and M. Vanderhallen, *Recherchesamenwerking in de Euregio Maas-Rijn. Knooppunten, knelpunten and kansen*. [Detective cooperation in the Meuse-Rhine Euregion. Connecting points, bottlenecks and opportunities] Commissioned by: Politie en Wetenschap, Apeldoorn (Maastricht: Universiteit Maastricht, 2013).

we have seen, and recent crime developments in the south of the Netherlands, there is a high level of urgency, and more far-reaching cross-border authorizations are needed.^{8,9}

These efforts are also seamlessly in line with the initiative taken in the context of the Benelux Treaty to update the Benelux Police Treaty. According to Simon Verdegem – head of the ‘bilateral and multilateral cooperation and European financing’ unit at the International Police Cooperation Directorate of the Federal Judicial Police – Belgium, in particular, has taken the initiative to permit more far-reaching cross-border investigation actions to be performed. The Belgian police have for some time been arguing in favour of expanding cooperation in the area of assistance.¹⁰ Rob Freriks, international staff executive of the Zeeland-West Brabant police unit, is arguing that the Benelux, as a ‘testing ground’ for Europe, would be a good environment to take this innovative step which, if successful, could lead to implementation in Europe.¹¹

Why improvement?

Based on the arguments in favour of improvement of the police cooperation, it is to be hoped, from the perspective of the police, that the Netherlands follows the Belgian initiative. After all, expansion of cross-border criminal investigation powers would lead to fundamental benefits on multiple levels. For example, it is obvious that limiting the flow of assistance requests in minor offences would be an effective way to tackle bureaucracy. This would drastically reduce the administrative burden associated with this for the police and the Public Prosecution Department.¹² Furthermore, the country wishing to exercise powers in another country, known as the sending state, would be less dependent on the willingness of the host state. On the one hand, this would reduce the turnaround time for criminal investigations, and on the other it improves the quality of dossiers.¹³ Another potential benefit is that it could prevent investigating officers – as inventive as they are – taking parallel routes to gather information piecemeal in other ways. This could include gathering and exchanging non-formalized information from public sources, such as websites, social media and GPS data. Finally, a not unimportant effect, in the long-term, would be that lawbreakers would not get a free hand because the police would be able to act more efficiently against cross-border crime or in criminal investigations with a cross-border nature.

8. Taskforce Brabant-Zeeland. Available at: <http://www.bredavandaag.nl/nieuws/algemeen/2016-05-24/taskforce-brabant-zeeland-jaagt-criminelen-richting-belgie-gelderland> (accessed 24 May 2016).

9. Omroep Brabant. Available at: <http://www.omroepbrabant.nl/?news/261624752/Taskforce+Brabant+Zeeland+nog+meer+drugszaken+dan+in+2015.aspx> and <http://www.omroepbrabant.nl/news/261405632/Brabantse+burgemeesters+willen+150+miljoen+voor+misdaadbestrijding+We+hebben+te+lang+weggekeken.aspx> (accessed 14 February 2017).

10. S. Verdegem, Interview about the revision of the Benelux Police Treaty, 20 February 2017.

11. R.Q. Freriks, Interview on improving police cooperation between Belgium and the Netherlands, 1 February 2017.

12. As an illustration: The Zeeland-West Brabant unit registered a total of 1620 incoming assistance requests in relation to minor offences in 2016, 972 of which originated from Belgium (60%). The percentage of outgoing assistance requests to Belgium for the same types of offences is the same. Of the 578 outgoing assistance requests, 346 went to Belgium (source: International Assistance Centre, Zeeland-West Brabant Police Unit).

13. Loss of quality can occur if an investigating officer of the host state is required to perform investigative actions in the context of a dossier the content of which he is unfamiliar with. He is dependent on the concrete nature of the assistance request made in writing, and as a result may miss relevant contextual information regarding the underlying investigation.

Objections

Naturally, the intended improvement has come up against a number of objections, both at the legal and political levels. As police policy and execution of duties portfolio holder at the Directorate General for the Police at the Ministry of Security and Justice, Jan Willem Schaper is responsible on behalf of the Netherlands for the treaty revision. He identifies the exercise of the ‘power of the sword’ as a legal obstacle.¹⁴ The system that protects citizens against compulsory action by the government is, after all, set down in laws and constitutions in all European countries. These all differ from one another and are therefore not simply transferable. The political obstacle related to this is that control of this power is a fundamental part of the sovereign nation.¹⁵ Reference is made in this context to the principle of sovereignty referred above. It goes without saying that, in the context of international police cooperation, the states involved acknowledge one another’s sovereignty, with respect to one another’s borders and authority. Although the legal consequences in the event of a breach of this right do not automatically have to result in a breach of procedural rules, there are concerns about loss of sovereignty.¹⁶ Hans Vissers, chief of police of the Zeeland-West Brabant police unit and Belgium portfolio holder on behalf of the National Police, has indicated that revision of the treaty must therefore always be carried out with a certain respect.¹⁷ Verdegem is also concerned about procedural errors due to differences between national legislations. He also refers to the Belgian language laws, with three official national languages, as a possible obstacle.¹⁸ Finally, Tim Scharloo, working as operational expert at the International Police Assistance Centre of the Zeeland-West Brabant police unit, refers to objections that could occur if the police acted independently without assistance in the territory of another country. After all, in such cases, coordination and control are not guaranteed.¹⁹

Internal/external security nexus: Connections between Belgium and the Netherlands

According to Van der Laan et al., within Europe, Belgium is permanently in the top three countries with which the strongest links exist, according to the analysis ‘*Criminele relaties tussen Nederland en andere landen*’ (criminal relationships between the Netherlands and other countries).^{20,21} The issue is the same: groups of perpetrators can operate unimpeded in the border areas and close logistical connections are maintained. The researchers drew up a theoretical framework within

14. *Het door de overheid eenzijdig opleggen van rechten en plichten aan burgers* [The unilateral imposition of rights and obligations on citizens by the government].

15. J.W. Schaper, Interview about the revision of the Benelux Police Treaty, 8 March 2017.

16. SC:2010: BL5629 (Brussels arms fair) of 5 October 2010. The cooperation in this case, which was not based on assistance, did not result in a breach of the sovereignty of Belgium, in view of the fact that the intention to cooperate was already present and this was formalized after the fact.

17. J.A.T.J. Vissers, Interview about the revision of the Benelux Police Treaty, 10 January 2017.

18. Vissers, Interview about the revision, 2017.

19. W. Scharloo, Interview on improving police cooperation between Belgium and the Netherlands, 31 January 2017.

20. National Police, National Unit, *Criminele relaties tussen Nederland and andere landen*. [Criminal relationships between the Netherlands and other countries], 2014.

21. F. Van der Laan et al., *Het grenzeloze werkveld van de politie. Externe veiligheidsontwikkelingen and hun implicaties voor internationale samenwerking* [The borderless area of operation of the police. External security developments and their implications for international cooperation] (The Hague: Clingendael International Institute of International Relations, 2016), Zoetermeer, The National Police of the Netherlands, Central Division. pp. 9, 46.

which internal and external security issues between countries can be linked to one another on four points: logistical, social, cultural and digital connection. When the security issues in the border area between the Netherlands and Belgium are viewed on the basis of this conceptual framework, the internal/external security nexus is primarily found in two types of connections. In the first place, there are logistic connections, in which context irregular or illegal goods or persons are physically moved from one country to another (smuggling crime). Illustrative of this type of connection is the export of marijuana and synthetic drugs to Belgium. Cultural connections also play a role. The border area has traditionally had significant activity by criminal gangs, and lawbreakers have for centuries been able to use the borders between jurisdictions to their advantage. The cultural connection, or more specifically the cross-border cultural affinity, can result in 'spillover' or contagion effects.²²

Does the border still exist?

The consequences of the 1985 Schengen Agreement²³ made clear the necessity of cross-border powers. The Benelux Police Treaty, signed in 2004, subsequently determined that police officers from the Netherlands, Belgium and Luxembourg could cross one another's borders in cases involving the maintenance of public order, such as in the case of large-scale events, disasters and serious accidents. Joint patrols and checks are also possible, as is acting in urgent situations, pursuits or limited cross-border observation. The focus in this treaty and other treaties, however, is on the provision and exchange of information and on actions in the context of monitoring and enforcement. This means that Belgian and Dutch detectives must still take the formal and bureaucratic route of police assistance for simple cross-border investigative (and other) actions.

Changes to realize the provision of cross-border powers logically require changes to the existing statutory framework. According to Vissers, Belgium is prepared to take far-reaching steps in this context, at both the political and administrative levels.²⁴ There is willingness to surrender a degree of sovereignty if this would simplify cross-border practical police operations, and save time and cost. In other words, Belgium is working to take the first – yet significant – steps in the cooperation between the two countries in order to achieve greater efficiency and effectiveness. It is doing this on the basis of the perception that only the governments still consider the border between Belgium and the Netherlands as solid and to be respected. The Netherlands does want to move forward in this but has more difficulty with surrendering sovereignty, even when this involves modest steps. Vissers understands that this is a big step for the Netherlands at the moment, despite the fact that the need to improve police cooperation affects both the Dutch and Belgian police. This is exceptional, in view of the fact that the classical sovereignty concept no longer fits within the political and legal reality from the perspective of the EU.²⁵

Another factor that can be of influence on police cooperation is the cultural differences between the Netherlands and Belgium. It was noted earlier that cultural affinity between these

22. *Het kopiëren van gedragingen in de criminele, terroristische of openbare orde-sfeer* [The copying of behaviour in the criminal, terrorist or public order settings]; Van der Laan et al., *Het grenzeloze werkveld van de politie*, 2016.

23. Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

24. J.W. Schaper, Interview about the revision of the Benelux Police Treaty, 8 March 2017.

25. Available at: <https://www.europa-nu.nl/id/vj1cbevc48a3/soevereiniteitsoverdracht>. Accessed 26 March 2017

countries can lead to ‘criminal coalitions’. Cultural differences in tackling crime, however, can rather have an opposite effect, and this should certainly not be underestimated, says Freriks.²⁶ According to Hofstede et al., the cultural differences between the Netherlands and Belgium are expressed primarily in power distance and uncertainty avoidance.²⁷ Reijnders also addresses this subject in his essay ‘*De Belgen doen het beter*’ (The Belgians do it better).²⁸ In it, he looks at aspects such as the differences in the respective approaches, spontaneity, planning and implementation.²⁹

Academic analyses

A number of academic studies in recent years have also addressed the issue of cross-border police cooperation in the Belgian–Dutch border area.³⁰ Although many of these publications pertain primarily to the Meuse-Rhine Euregio, crime developments – and implicitly the need for intensive cooperation – are just as much an issue in the Scheldemond and Benelux-Middengebied Euregios.³¹ This is because there are many similar crime issues in these border areas. As a result, there is intensive mutual assistance due to the cross-border nature of criminal investigations.

Spapens refers to the treaty law context as a ‘patchwork quilt’, in which respect even experienced officials in the area of international cooperation can lose their way.³² Van Daele et al. argue

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26. R.Q. Freriks, Interview on improving police cooperation between Belgium and the Netherlands, 1 February 2017.
27. G.J. Hofstede, M. Minkov and G. Hofstede, *Allemaal andersdenkenden: omgaan met cultuurverschillen* [Everyone a dissenter: dealing with cultural differences.] (Amsterdam: Uitgeverij Business Contact, 2016).
28. Peter Reijnders is the former head of the Dutch Synthetic Drugs Unit (USD).
29. Reijnders, P., cited in M.G.W. Den Boer, ‘*De Belgen doen het beter; blauwe bespiegelingen over de grens* [The Belgians do it better; blue contemplations across the border]’, in D. Hilarides and P. Tops, eds., *Passie voor politie. In het hart van het vak* [Passion for Police. In the heart of the profession.] Essays on developments in the police profession, offered to Ineke Stam on her retirement as chairman of the Board of the Police Academy on 3 September 2007 (Apeldoorn: Police Academy, 2007), pp. 179–190.
30. G. Hofstede et al., *Grensoverschrijdende politiesamenwerking tussen België, Duitsland, and Nederland; met speciale aandacht voor de Euregio Maas-Rijn* [Cross-border police cooperation between Belgium, Germany and the Netherlands; with special attention to the Meuse-Rhine Euregio] (Maastricht, Universitaire Pers Maastricht, 1993); M.G.W. Den Boer and T. Spapens, ed., *Investigating Organised Crime in European Border Regions* (Tilburg: IVA/Katholieke Universiteit Brabant, 2002); T. Spapens and C. Fijnaut, *Criminaliteit and rechtshandhaving in de Euregio Maas-Rijn, deel 1* [Crime and law enforcement in the Meuse-Rhine Euregio, part 1] (Antwerp/Oxford: Intersentia, 2005); Spapens, 2008; C. Fijnaut and B. De Ruyster, *Voor een gezamenlijke beheersing van de drugsgerelateerde criminaliteit in de Euregio Maas-Rijn* [Towards joint management of drug-related crime in the Meuse-Rhine Euroregion] (Maastricht: Euregio Maas-Rijn, 2008); D. Van Daele et al., *Criminaliteit en rechtshandhaving in de Euregio Maas-Rijn, deel 3. De bestuurlijke aanpak van georganiseerde criminaliteit in Nederland and België* [Crime and law enforcement in the Meuse-Rhine Euregio, part 3. The administrative approach to organised crime in the Netherlands and Belgium.] (Antwerp/Oxford: Intersentia, 2010); Rovers and Fijnaut, *Criminaliteit and rechtshandhaving in de Euregio Maas-Rijn, deel 1*, 2011; Rovers and Fijnaut, *Criminaliteit and rechtshandhaving in de Euregio Maas-Rijn, deel 5*, 2011; Nelen, Peters, and Vanderhallen, *Recherchesamenwerking in de Euregio Maas-Rijn*, 2013.
31. The Meuse-Rhine Euregio consists of Noord-Limburg and Midden-Limburg and the German federal states of Mönchengladbach, Krefeld, Kreis Viersen, Rhein-Kreis Neuss and the southern Kreis Kleve. Scheldemond Euregio is made up of the provinces of Zeeland, Oost-Vlaanderen and West-Vlaanderen. The Benelux Middengebied Euregio is made up of the Flemish provinces of Antwerp, Limburg and Vlaams Brabant and the Dutch provinces of Noord-Brabant and Limburg. Available at: <https://europadecentraal.nl/onderwerp/grensoverschrijdende-samenwerking/euregios>
32. Spapens, T. (2008). *Georganiseerde misdaad en strafrechtelijke samenwerking in de Nederlandse grensgebieden*. [Tackling organized crime in Dutch border areas]Antwerpen/Oxford. Intersentia Date: 6 March 2017. Available at : <https://europadecentraal.nl/onderwerp/grensoverschrijdende-samenwerking/euregios/>

that the assumed support on the basis of police assistance treaties is just an illusion because countries have different priorities in investigation and prosecution.³³ According to Nelen et al., the problem lies primarily in the treatment of smaller police assistance requests.³⁴ Within the existing cooperation forms, the biggest problem is the inability to respond quickly and adequately to wishes and needs on both sides of the border. Rovers and Fijnaut have identified two other operational–organizational problems. Firstly, confidence in international cooperation relationships and more specifically the continuity in these relationships. There is also a lack of qualified personnel to be able to cooperate internationally.³⁵ Due to the existing security issues, Fijnaut argued in favour of intensification of police cooperation.³⁶ In its current form, he refers to it as ‘piecemeal engineering’.³⁷ *If there are member states who must be able to cooperate, these are precisely the Netherlands and Belgium, he feels. However, Fijnaut³⁸ attaches a number of crucial conditions to this cooperation. It starts with a joint objective on the basis of mutual crime issues. Once this is clear, the approach must be prioritized, and capacity made available for this. After these process-related ‘obstacles’, the next aspect is implementation. This demands availability of qualified teams and continuity in the cooperation relationships.*³⁹

Finally, and tying in with Fijnaut’s point, the differences between decision-making in Belgium and the Netherlands play a determinative role in prioritization and capacity allocation. The problem lies in the fact that the joint interests are sometimes forgotten in this. In his study, Van Nimwegen examines the various choice processes. He refers to the Belgian process of choosing as pragmatic and quick, in contrast with the Dutch choice model, with its exponent as the phenomenon of ‘steering and weighing teams’. This model has a rather discretionary nature, and decision-making is, by definition, time-consuming. This clashes in the joint approach.⁴⁰

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33. D. Van Daele, T. Spapens and C. Fijnaut, *De strafrechtelijke rechtshulpverlening van België, Duitsland and Frankrijk aan Nederland* [The Criminal Law Assistance of Belgium, Germany and France to the Netherlands] (Antwerp/Oxford: Intersentia, 2008), pp. 295–296.
34. Nelen, Peters, and Vanderhallen, *Recherchesamenwerking in de Euregio Maas-Rijn*, 2013.
35. B. Rovers and C. Fijnaut, *Criminaliteit and rechtshandhaving in de Euregio Maas-Rijn, deel 1. De problemen van transnationale (georganiseerde) criminaliteit and de grensoverschrijdende politieë, justitiële and bestuurlijke samenwerking* [Crime and Law Enforcement in the Meuse-Rhine Euregio, Part 1. The Problems of Transnational Organised (and other) Crime and the Cross-border Police, Judicial and Administrative Cooperation.] (Antwerp/Oxford: Intersentia, 2011), p. 233; B. Rovers and C. Fijnaut, *Criminaliteit and rechtshandhaving in de Euregio Maas-Rijn, deel 5. De drugsoverlast in Maastricht and omliggende gemeenten* [Crime and Law Enforcement in the Meuse-Rhine Euregio, Part 5. Drugs Problems in Maastricht and Surrounding Municipalities] (Antwerp/Cambridge: Intersentia, 2011).
36. C. Fijnaut, *Pleidooi voor de vorming van een Schengen II*. (Arguments for the formation of a Schengen II) In: *De belofte van een ander Europa. Naar een Europese Unie van waarde* [The promise of a different Europe. Towards a European Union of Value.] (Amsterdam: Uitgeverij Van Gennep B.V, 2016), pp. 155 and 161–162.
37. A step-by-step development, in which progress is made little by little. Available at: <http://www.linguee.nl/engels-nederlands/vertaling/piecemeal+progress.html> (accessed 21 March 2017).
38. Cyrille Fijnaut is emeritus professor of criminology, criminal law and comparative law.
39. C.J.C.F. Fijnaut, interview on improving police cooperation between Belgium and the Netherlands, 18 January 2017.
40. S.J.M. Van Nimwegen, *Onbegrensd opsporen. De meerwaarde van een Joint Investigation Team in Nederland en België, op basis van een kwalitatieve vergelijking* [Borderless Criminal Investigation. The Added Value of a Joint Investigation Team in the Netherlands and Belgium, on the Basis of a Qualitative Comparison] Course: *Innovatie and samenwerking in de opsporingsketen in EU-perspectief* [Innovation and cooperation in the criminal investigation chain in an EU perspective] (Antwerp/Eindhoven/Luxemburg: Benelux Universitair Centrum, 2011), pp. 26–28.

The Prüm Convention

The introduction referred to the successive treaties of Schengen, Senningen and Prüm, all of which were intended to regulate and improve the police assistance relationships between member states of the EU. The Prüm Convention of 2005 (also referred to as Schengen III) is seen as the most comprehensive in this series.⁴¹ The objective of the treaty is intensification of cooperation in the area of combating cross-border crime, terrorism and illegal migration. The focus within these objectives is on simplifying the exchange of information. The above analysis of the police cooperation between Belgium and the Netherlands raises the question, however, of whether Prüm has not failed in that respect regardless of the main objective relating to improvement of the operational cooperation. Guild and Geyer⁴² raised the subject of the operation of this treaty and entered into between seven EU member states. They refer to this intergovernmental treaty as unfriendly and disloyal to the other member states, in an anachronistic attempt to revive the Schengen ideology. With a metaphorical reference to the procession of Echternach,⁴³ they concluded that the Prüm Treaty cannot be seen as a material step forward in operational cooperation.

The need from the field

A quick scan among Dutch and Belgian detectives confirms the picture sketched in the above analysis. There is a great deal of need in day-to-day police practice for a more efficient police cooperation. One joint bottleneck is delay, loss of time and quality which occurs in the context of simple assistance. The formalities and administrative burdens take a great deal of time. Responding quickly and adequately in the context of criminal investigation is currently not possible.⁴⁴ Vissers recognized these complaints and called this a gap in the 'borderland' police cooperation, by which he means that cross-border police activity must apply to the entire territory and therefore not merely to the border area.⁴⁵

Revision of the Senningen Treaty

In 2017, the Netherlands is chairing the strategic meeting of Benelux police chiefs.⁴⁶ This meeting advises the departments in question in the Netherlands, Belgium and Luxembourg about the revision of the Benelux Police Treaty. Negotiations for the Netherlands are carried out by the Ministry of Security and Justice.⁴⁷ In his letter to the Lower House about the Benelux summit, Foreign Minister Bert

41. G.A.M. Strijards, *Van Schengen over Senningen naar Enschede and Prüm met Lissabon als eindstation: een ongedachte reisroute* [From Schengen Through Senningen to Enschede and Prüm, with Lisbon as Final Destination: An Unexpected Route]. *Tijdschrift voor de Politie* 70(10) (2008), pp. 9–15.

42. E. Guild and F. Geyer, Getting Local: Schengen, Prüm and the Dancing Procession of Echternach. Three Paces Forward and Two Back for EU Police and Judicial Cooperation in Criminal Matters. *Journal of Criminal Law* 1(3) 2006, pp. 61–66 [the forerunner of the *New Journal of European Criminal Law*] (Available at: <https://www.ceps.eu/publications/getting-local-schengen-pr%C3%BCm-and-dancing-procession-echternach-three-paces-forward-and> (accessed 20 May 2017).

43. The Procession of Echternach is a processional march held annually in the Luxembourg town of Echternach. The walking rhythm was originally: three steps forward and two steps back. This expression is used to illustrate how a process can proceed unnecessarily slowly or inefficiently.

44. F.M. Pecht et al., interviews on improving police cooperation between Belgium and the Netherlands, 11 and 12 January 2017.

45. Pecht et al., interviews on improving police, p. 15.

46. Available at: <http://www.benelux.int/nl/nieuws/bdv-strategisch-overleg-tussen-de-benelux-politiechefs-een-balans>. The "Police" strategic meeting is the highest authority of police cooperation between the Benelux countries. (accessed 26 February 2017).

Koenders stated that the focus during the chairmanship of the Netherlands will be on the theme of 'security'. The highest priority will be allocated in 2017 to the negotiations on the treaty revision.⁴⁸ When asked about how the Netherlands will realize this in practice, Schaper stated that a negotiating group has been formed for this, which hopes to reach an important political milestone at the end of March. The revised treaty text will be ready in the autumn of 2017. Schaper confirmed that the sphere of operation of the Senningen Treaty can be expanded and that it certainly is the intention to achieve significant progress.⁴⁹ The other Benelux countries are also aiming to achieve more efficient cross-border police cooperation and they are prepared to allocate extra powers for this.⁵⁰ Auke Willems pointed out that, although there are potentially many possibilities to improve police cooperation, this has always been a highly sensitive matter between EU member states. In this context, he referred to Article 89 of the Lisbon Treaty, which stated that unanimity of votes within the European Council is required with regard to powers to act on the territory of another union state.^{51–53}

Visser, Belgium portfolio holder on behalf of the National Police, is the chairman in 2017 of the strategic meeting of Benelux police chiefs. He has been asked about the current state of affairs regarding the revision of the Senningen Treaty. One of the most important initiatives with which the initial cautious steps towards improvement were taken relates to the possibility to interview suspects and witnesses in a controlled manner on one another's territory, subject to the supervision of an authorized police officer.⁵⁴ This is referred to as the 'bailiff model'.⁵⁵

Conclusion

So while the political traffic light for improvement of the operational police cooperation is green at the moment, the process for making concrete and meaningful progress is slow and difficult. The first tentative steps are being taken, but these initiatives are not efficacious and are too restrained. In the debate aimed at finding the limits of the Benelux Police Treaty and expanding them, it is therefore being argued that more far-reaching steps must be taken. Expansion of the existing cooperation possibilities is being seen as having major importance for the security of citizens. This aspect should weigh more heavily than the legal, political or organizational barriers, which must be lowered where possible. The treaty revision referred to earlier appears to be the perfect opportunity for the two

47. J.A.T.J. Visser, Interview about the revision of the Benelux Police Treaty, 10 January 2017.

48. B. Koenders (2017, 17 January). *Terugblik Benelux Top and prioriteiten Nederlands voorzitterschap van de Benelux Unie in 2017* [Kamerbrief] [Review of Benelux Summit and Priorities for the Dutch Chairmanship of the Benelux Union in 2017 [Parliamentary paper]] Available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2017/01/17/kamerbrief-over-de-benelux-top-en-het-nederlands-voorzitterschap-van-de-benelux-unie-in-2017> (accessed 18 February 2017).

49. J.W. Schaper, Interview about the revision of the Benelux Police Treaty, 8 March 2017.

50. Benelux Secretariat-General, 2016. *Jaarplan 2017*. (Annual Plan, 2017), pp. 30–51.

51. Lisbon Treaty to amend the Treaty on the European Union and the Treaty to establish the European Union, signed in Lisbon, 13 December 2007. Treaty Series 2008, 11.

52. This means that a proposal can only be adopted if all member states agree, also known as unanimity. Available at: https://www.europa-nu.nl/id/vh75n47fr4ub/raad_besluit_met_eenparigheid_van_stemmen (accessed 28 April 2017).

53. A. Willems (PhD researcher on Migration, Diversity & Justice, affiliated with the Institute for European Studies of the Vrije Universiteit of Brussels: interview on improving police cooperation between Belgium and the Netherlands, 4 March 2017.

54. J.A.T.J. Visser, Interview about the revision of the Benelux Police Treaty, 10 January 2017.

55. According to this model, cross-border actions are possible under the supervision of an investigating officer who primarily monitors the rights of suspects and witnesses.

countries to bring this about. The opinion of Freriks is endorsed, when he argues: '[...] in order to take a truly innovative step involving real change, far-reaching measures will be necessary [...]'.⁵⁶

Recommendations

Suggestions in the context of the treaty revision include scrapping small-scale police assistance in minor offences, such as interviewing suspects and witnesses in simple criminal investigation cases and providing mutual access to police registers and judicial documentation. These practical suggestions are being referred to as 'quick wins' and are deemed to be of crucial importance to improving police cooperation. For a long-term strategy, it is to be recommended that, in the future, Belgium and the Netherlands draw up joint objectives on the basis of each side's crime problems. There are possibilities for joint analyses in areas such as border zone drug criminals, terrorism, mobile banditry or cocaine smuggling in the Scheldemond Euregio. In this context, it is interesting to refer to a similar initiative by the Noord-Nederland and Oost-Nederland police units. Based on a forceful approach, these forces signed a declaration of intent within the framework of the Enschede Treaty⁵⁷ to share burglar data with the Polizeidirektion Osnabrück.⁵⁸ This initiative illustrates that the corporation options within existing frameworks have still not yet been exhausted and that the operating range can still be increased.

Finally: Threat or opportunity?

Tackling cross-border crime, now and in the future, demands a fully functional police organization. The Dutch police have come through a major reorganization, resulting in increased resilience against crime. In order to make it possible for the National Police as a new organization to tackle cross-border crime effectively and efficiently, appropriate laws and regulations are necessary. With reference to the title of this article, therefore, the following position is defended in conclusion. Finding the limits of the Benelux Police Treaty will not form any threat to Belgium and the Netherlands. On the contrary, it is the opportunity to be able to offer citizens more borderless security and safety in the long term!

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56. R.Q. Freriks, Interview on improving police cooperation between Belgium and the Netherlands, 1 February 2017.

57. Treaty of 2 March 2005 between the Kingdom of the Netherlands and the Federal Republic of Germany on cross-border police cooperation and criminal law matters. Treaty Series 2005, 86, rectification Treaty Series 2005, 241.

58. Available at: <http://intranet.politie.local/nieuws/0000/2017/January/30/intentieverklaring-met-duitsland-over-wonin-ginbraken.html> (accessed 31 January 2017).