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# Projecting national preferences: police co-operation, organizations and politics

Jacques de Maillard and Andy Smith

**ABSTRACT** Policing policy in member states of the European Union (EU) increasingly overlaps with the latter's laws and policies, but what causes how national actors set and 'project' their respective positions within EU decision-making? Based upon research into the French and British cases in this field over the 2000s and sociological public policy theory, our analysis reveals that while these states formally share strongly centralized systems of co-ordination based on specialized ministries and interministerial mediation, considerable differences exist over the type of inter-administrative competition within each civil service and the linkages to politics this entails. Although national administrations and police forces in both countries have reorganized to engage in EU negotiations, intra-policy community tensions are much greater in France than in Britain. Secondly, the piece shows why British preference formation and projection in this sector is more systematically shaped by parliamentary, media and interest group scrutiny than its French counterpart.

**KEY WORDS** National preferences; organizations; policing; polity; projection-sector.

## 1. INTRODUCTION

For any European Union (EU) negotiation, each Member State has to define and defend a national position. Apparently simple, this process actually entails a complex series of positions taken by a plurality of players. The term 'negotiating the quagmire' (Wright 1996) nicely synthesizes a process marked by constant overlap between European and domestic policies, continuous consultations, shifting intergovernmental alliances or disputes between national actors over what competences should even be addressed at the European scale. The present paper seeks to contribute to this area of research by comparing how the representatives of France and the UK have set and promoted their national positions on police co-operation and criminal justice. In short, our focus is on what Bulmer and Burch define as the 'projection' of national preferences: 'the development of machinery for securing an effective voice in the formulation of policy in Brussels. It means learning the rules of the EU game' (2005: 866–67). More precisely, we set out to explain why both this machinery and the learning of these rules differ in our two national sectors.

In addressing this question, a focus on the policy area of police and criminal judicial co-operation presents several advantages.<sup>1</sup> Since the mid-1990s, the EU has progressively become more involved in the policing policy and practice of its member states. In general terms, this trend has been reflected in an increasing number of new provisions in treaties, European Council programmes, EU legislative acts and action programmes (Bigo 1996; Friedrichs 2008; Guild and Geyer 2008; Lavenex and Wagner 2007; Mitsilegas *et al.* 2003; Monar 2006a, 2006b). This area of European integration has therefore sparked the involvement of Justice and Interior ministries who prior to the early 1990s had invested weakly in issues of European integration. This issue area has since become the subject of a constant flow of EU negotiations which have potentially caused the reorganization of national systems of 'projection'. Policing thus provides an appropriate testing site for analysis of change or continuity on the one hand, and inter-national difference or similarity on the other.

Framing and designing such research, however, first entails theoretical positioning. Since the seminal work of Wallace (1971) on the six founding member states, and despite constant top-down pressures for change, a body of research dominated by historical institutionalism (HI) has shown the relative resilience of national structures (Borzel 1999; Harmsen 1999; Rometsch and Wessels 1996). These publications have convincingly shown how the civil service of each member state has gradually evolved in order to prepare national positions and defend them at the scale of the EU (Kassim *et al.* 2000, 2001). In so doing, the impact of pre-existing national institutions upon civil service procedures and practices is seen as explaining why only limited convergence between national structures has taken place.

Notwithstanding the quality of these studies, they run the analytical risk of overestimating both the continuity of national practices over time and similarity between different parts of each civil service. In contrast, other research within HI has stressed the possibility of institutional change. Indeed, Jordan (2003) has even argued that dramatic changes within national administrations can occur (what organizational sociology calls 'double loop learning'), while Bulmer and Burch (2005) have shown that the Blair government introduced a 'step change' in British administrative adaptation to Europe (the adoption of a more active approach).

In attempting to contribute to this ongoing debate about change, this paper addresses two interrelated questions over which HI needs further development:

- *The extent and degree of change of national structures:* here the analytical challenge today is to conceptually and empirically link administrative (organizational and cultural) and political (role of ministers, relationships with civil society) dimensions of change.
- *The causes of, or obstacles to, change:* to date emphasis has been placed upon mediating factors such as institutional constraints (e.g. executive/legislative relations, the embedded organization of interministerial relations), political and organizational cultures (artefacts, values, assumptions) and the role of

‘change agents’, especially politicians. Again, the challenge that remains is to link these aspects both theoretically and methodologically.

In order to move research design forward on both these points, this text draws upon a sociologically informed strand of public policy analysis (Hassenteufel 2008) which heavily emphasizes the importance of actor interactions and inter-connectedness but also competition. Different organizations engaged in national preference formation are thus first and foremost conceptualized as entities whose primary ambition is to dominate their respective policy community while isolating the latter from outside ‘interference’. More specifically, such an approach provides tools for analysing change in models of projection as a consequence of shifts in the relationship between policy-making, politics and polity. In terms of person-hours, *policy-making* in a sector such as policing, and thence the formation of national preferences, is certainly dominated by intra and inter-ministerial negotiations, mediation between national capitals and their permanent representations (PRs) in Brussels and exchanges with other national sectoral delegations. However, these processes are also constantly affected by the actions of politicians, and ministers in particular (*politics*). More profoundly still, the making of national preferences is shaped by the configurations of institutions and actors who constitute national *polities*.

From these fundamental theoretical foundations, we have consequently developed an approach to the formation and projection of national positions which sets out to test two interlinked hypotheses:

- Although formal interministerial bodies have been set up in many member states to ostensibly define national positions using both consultation and hierarchy, by mobilizing their specialized knowledge and networks, sector-specific administrations continue to dominate the community of actors who project national policies within EU arenas. Here, change has been incremental and has not included any step changes or dramatic shifts (Section 2).
- The dynamics of national models of projection cannot be separated from the roles played by actors outside each executive. Notwithstanding the resources held by the latter, to different degrees, parliaments, organized interests and the media weigh on the definition of national positions. However here, despite recent incremental changes, the engagement of these actors in scrutinizing the projection of policing policy remains less systematic in France than in the UK (Section 3).

When comparing the member state modes of projection, the distinction primarily used opposes states with strong, centralized co-ordination (France, the UK or Denmark) to those whose co-ordination is reputedly more flexible and fragmentary, like Germany (Allen 2005; Kassim 2000). Why then compare France and the UK? The interest of this comparison is precisely to show that despite a common ambition of centralized co-ordination, these two member states differ around the content of their inter-sectoral mediations, the division of roles between actors located in their respective capitals and Brussels, and in

the inclusion of non-Executive actors. More precisely, whereas British EU-negotiators have been subject to significant external pressure, their French counterparts have found it easier to remain isolated from actors outside the policing sector.

## **2. ORGANIZING FOR ENGAGEMENT IN THE EU: EUROPEANIZATION AND INTRANATIONAL COMPETITION**

This section first sets out to analyse the effects of intra and inter-organizational organigrammes and divisions of competence concerning EU projection. It then examines the values and assumptions of each organization's personnel through analysis of their discourse about EU-related change in their respective daily practices. In both instances, it will be shown that developing a capacity to 'project' national policing priorities into EU arenas is clearly an objective shared by all the relevant actors in both France and Britain. However, it is constantly cross-cut by another objective: to maintain or increase organizational influence *within* national governmental arrangements.

### **2.1 Organigrammes and divisions of labour: internally driven change**

In terms of the French and British organizations involved in projecting national preferences in this sector, EU-linked change has certainly occurred. However, the key driver still appears to be organizational competition within each national configuration of governmental bodies.

#### *2.1.1 France: change through competition*

France's 'dual' policing model has developed around a clear distinction between a *Police Nationale*, charged with keeping public order and fighting crime in urban areas, and a *Gendarmerie Nationale* which has similar functions in the remainder of the country. Until 2002, the duality of this model was also reflected in divisions of competence for policy-making and political accountability because the *Police Nationale* came under the remit of the Ministry of the Interior while the *Gendarmerie* 'answered to' the Ministry of Defence. Over the last 6 years, the Ministry of the Interior has taken charge of all operational activities of both forces. Nevertheless, because of the size, structure and strength of each police force, in reality policy is still made by separate interfaces between the *Police Nationale* and the *Gendarmerie*. Indeed, the Ministry of the Interior has had great difficulty in creating a single representative body for its European negotiations. Depending on the topic at issue, one of three 'vertical' departments within the Ministry of the Interior's *Direction générale de la police nationale* (DGPN) – the International Technical Cooperation department, the Central border police department or the Judiciary police department- has taken the lead. As a senator's report in 1998 highlighted (Turk 1998), often these different departments had difficulty in agreeing on a common message. Although between 1998 and 2000 there was some movement towards internal

co-ordination, notably through the creation of the *Délégation aux Affaires Internationales* (DAI), this quickly lost out to the vertical departments. As one interviewee within the Ministry of the Interior put it to us:

We have no specifically European department. This is really *the* Ministry of the Interior (...) The DAI still exists on paper, and under Chevènement its Director was directly linked to the minister and his cabinet. But since then his successor no longer has such a privileged position. (Interview, March 2003)

Or, as another interviewee from the same ministry put it bluntly: ‘As soon as Chevènement left the DAI began to be shot at’ (Interview, September 2003). This structure has since been replaced by a *Mission pour les affaires européennes et internationales*, but this has never been able to impose itself as the keystone of the definition of national police positions. Instead it has just played a role of co-ordination between the positions of vertical departments.

As regards the *Gendarmerie*, the deepening of the EU has nevertheless been integrated into daily practice in quite different ways. Partly because some heads of the *Gendarmerie* felt they were being marginalized by the *Police Nationale* during EU negotiations, since the 1990s this organization has been highly mobilized through its involvement in numerous European-wide projects, an active presence in Council working groups and, above all, the creation of a unit that centralizes EU-linked information and seeks to co-ordinate the *Gendarmerie*’s ‘European positions’. Significantly, this level of engagement in EU arenas has not been universally welcomed:

The involvement of the *gendarmerie* (...) is recent and has not necessarily been seen positively by certain administrations, in particular the *Police Nationale* (...) we still feel that the *Gendarmerie* has to fight in order to obtain posts and must justify itself a bit more than the others. (Interview, *Gendarmerie Nationale*, 2005)

Thus, until now, the organizational involvement of the *Police nationale* and the *Gendarmerie Nationale* is marked by fragmentation and, sometimes, rivalries between various functional departments. The creation in August 2010 of an international relations department (*Direction des relations internationales*) within the DGPN may change this state of affairs. This unit is specifically in charge of bilateral and multilateral negotiations, including EU ones. It has merged staff from the unit in charge of international affairs in the *Gendarmerie*, from the cabinet of the DGPN and from the International Technical Cooperation department, thus responding to a concern over the coherence of the positions of the Ministry of Interior. Although it is too early to evaluate the full impact of this change, it may reinforce the ability of the ministry to define common positions, to co-ordinate more strongly between *gendarmes* and policemen, and link operational co-operation to negotiations in working groups of the Council. However one should note that this new institutional setting partially reproduces the former

configuration because this directorate is still a vertical one (it was simply added to existing vertical departments).

Not surprisingly, conciliating substantive and procedural differences between the two police forces constitutes a major challenge when representatives of all the bodies concerned, not to mention those of the Ministry of Justice, are called upon to develop ‘France’s’ position in an EU negotiation. Here the role of the French executive’s co-ordinating body, the *Secrétariat Général des Affaires Européennes* (SGAE), has played a major role because in policing, as in other sectors (Eymeri 2002), it has formalized inter-ministerial co-ordination. Nevertheless, the transformative effects of this development must not be overstated, given that both the *Police Nationale* and the *Gendarmerie* have consistently sought to place their own personnel within the SGAE in order to protect their respective domains. In short, intranational competition between these two police forces has been a prime cause of engagement in the interministerial bodies which prepare and promote France’s positions in the EU.

### 2.1.2 UK: change through co-ordination

In the case of the UK policing sector, such intranational competition has played a much smaller role in mediating the organizational impact of the EU. A key explanation of this relative absence of organizational competition is the long-standing and clearcut separation between the daily operational management of the police and its government.

The former has experienced several organizational innovations indirectly linked to European integration over the last two decades, in particular the creation of The National Central Intelligence Service in 1992, followed in 1997 by that of a National Crime Squad focused on serious and organized crime. Since 2006, these bodies have been amalgamated into the Serious Organized Crime Agency (SOCA) (Savage 2007: 112–15). All these changes reveal an undisputed nationalization of policing in the UK which simultaneous engagement in an EU sector of policing has clearly encouraged. In particular, the deepening of international police co-operation strongly favours the identification of only a limited number of national spokespersons within each member state. However, this increased European activity does not mean that pressure from the EU has been a prime cause of intra-UK reform. Significantly, the arguments developed as a rationale for nationalization of ‘the fight against serious crime’ were primarily domestic: ‘improving co-ordination and consistency’, ‘avoiding duplication’, ‘introducing economies of scale’, and ‘facilitating the central control of service provision’ (Savage 2007: 111). Nor, more to the point for this paper, has this trend meant that the police are more involved in actual policy-making than hitherto. As an UKREP official put it to us,

Of course, there is consultation with policing bodies such as SOCA. They all play a significant role on operational issues – and indeed they are often in Brussels speaking in non Council meetings etc. But the Home office is still taking the lead – classical civil service practice. (Interview, September, 2010)

The government of the UK police has thus undergone much less change and this is largely because it has been dominated throughout this period by ministers and civil servants from one ministry: the Home Office. Since the beginning of the 1990s, a *European and International Affairs Unit* (EIAU) has been made responsible for internal co-ordination between four major *policy units* (*The Judicial Co-operation Unit, the Police Co-operation Unit, the Organized Crime Unit* and *The Drugs Unit*). The EIAU is staffed by around a dozen civil servants, many of whom have spent several years in Brussels on secondment to UKREP. A member of this Unit underlined on interview that:

The policy units have the policy lead, go to all the working groups, negotiate individual items – the day to day routine of negotiating in Brussels. They are experts in their particular areas. (...) Obviously, we have the bigger picture. We see all the items on the Council agenda whereas they only see their one. Our job is to make sure that they are all joined up. (October, 2003)

This importance given to co-ordination on ‘European affairs’ within the Home Office spills over into a second explanation of low levels of inter-organizational conflict in the UK policing sector: formal interministerial co-ordination. However, and contrary to policy domains within the EU’s ‘first pillar’ (Kassim 2000), in this issue area, formal co-ordination has not been dominated by the European Secretariat of the Cabinet Office. Indeed, far from being the equivalent of the French SGAE, this body intervenes rarely over policing issues. Instead, seconded officials in UKREP, systematic written communication and informal consultation generally enable Home Office officials to lead in developing ‘the UK’s’ position on policing then defending it within EU negotiating arenas.

You can obviously disagree. If it was serious enough you would either have ministerial correspondence or, if it really got bad you would have a meeting at cabinet office level. It very rarely gets to that stage. The Cabinet Office usually become involved in fact before it reaches ministerial level. (Interview, Home Office, October 2003).

We do speak with one voice mostly (...). The fact that we now have a coalition government does however slow things down. We have to be extra careful now about consulting all the departments. (Interview, UKREP, September 2010)

In summary, increased EU activity in the policing sector has prompted some organizational change within both France and the UK in order to prepare for projection. Nonetheless, in neither case it has significantly changed pre-existing inter-organizational patterns and logics. Those of France continue to be ones of competition and conflict. Meanwhile, the modifications of British organizations due to EU engagement have strongly tended to further reinforce the cohesion and autonomy of a remarkably unified set of policy-making and implementing actors.

## 2.2 Change in values, assumptions and practice: EU *savoir faire* not resocialization

Much more commonalities between these two national cases can, however, be found in a second set of organizational changes which concerns the practice of defending 'national' positions in EU decision-making arenas.

As research has shown in other policy areas (Kassim *et al.* 2000; Richardson 2005), these activities require familiarity with European issues and arenas – 'a poorly-lit swamp, full of many-headed beasts', to quote one of our interviewees. Despite, or perhaps because of this challenge, many of our interviewees clearly enjoy the constant rounds of negotiations, alliance-building and compromise-making which are reputed to require what many interviewees summarized as an 'understanding of the European game': a grasping of a certain number of rules, knowledge and know-how which is then injected into negotiations with representatives of the other member states and the Commission. When in 'defensive mode', the key know-how involves a command of recurrent formulae:

we fight to include 'if appropriates', 'in accordance with national laws', 'coulds' instead of 'shoulds', and 'as far as possibles', so that when we get home we don't get shouted at. (Interview, French RP official, October, 2004)

Know-how for acting defensively is also expressed in tactics which include identifying allies ahead of discussions in order to block proposals or attempting to foresee problems about how negotiating outcomes would fit with existing national legislation. When in the 'offensive' mode, knowledge and know-how is mobilized more in order to defend or even 'sell' ones own national model of policing, be this within the different EU groups set up to write guides of 'good practice' or within bodies that devise training courses (e.g. at the European Police College or during negotiations concerning the AGIS programme against organized crime). Indeed, this approach to EU negotiations translates into specific strategies with bodies such as UKREP who 'try to add value' to work carried out by their colleagues in the Home Office:

The HO want to keep the microphone. We see many advantages in this. It ensures they have ownership of the process, it makes them buy into it and ensures ministerial involvement. They need to do their homework before coming and it frees up us RPs to be doing things in the margins, fixing things and thinking about where things are going (...). We consider that we are best used for negotiating compromises when the working group has boiled issues down to the difficult bits. (Interview, UKREP, July 2003)

In short, what is favoured in the UK is a strategy that gives responsibility over the process of negotiation to civil servants from the capitals, at the risk, according to some of our French interviewees, of not speaking the 'Brusselian Volapük':

In working groups in Brussels, it is a job for negotiators ... There is a specific language. You need to speak a Volapük. And need to be able to get involved in

various networks. When, sometimes, we hear representatives of the Home office, we are not sure that they understand it . . . Members of the RP, as they don't speak, don't necessarily pay attention to every word pronounced by the chief of their delegation. (Interview, SGAE, September 2010)

On the contrary, the French model is based on another articulation between ministries and their PR. Here PR officials play a central role in the development and defence of French positions. Unlike their British counterparts, it is members of the PR who speak most often in working groups:

It is the PR who speaks (. . .). Frankly, it's a good thing because we negotiate from beginning to end. I have to know the dossier and all its history. When it goes to CATS [committee of article 36], COREPER and the Council this is effective because I can give useful advice to our political heads. (Interview, July 2003)

This situation has remained the same ever since (the turning point was the French presidency in 2000). Therefore, French PR counsellors occupy a key position between national authorities and European partners, a position that is not always comfortable. A fundamental requirement of a PR official's work is to remain credible with their national administrations, including remaining very cautious during formal negotiations, and above all not appearing to betray national interests. From this point of view, again a strong sectoral specialization must again be emphasized: members of this PR are specialists from sectoral ministries, not career diplomats.

Analytically, this section's findings on how British and French actors from the policing sector 'project' during EU negotiations raise the question of the possible shifting of allegiances among the civil servants and policing personnel engaged in this constant process of positioning, alliance-building and compromise-making: have actors of police co-operation opted – consciously or not – for forms of professional solidarity, and, in so doing, made themselves autonomous from their respective state? Some years ago, this hypothesis was made in certain studies on police sociology, in particular by Bigo (1996; see also Anderson *et al.* 1995). According to Bigo, a fundamental but silent revolution has taken place since the 1970s which has trans-nationalized police bureaucracies. More precisely, he concludes that European police co-operation has been promoted by autonomous networks of national actors based on professional solidarity wherein it has proved easier to institutionalize co-operation between representatives of the same organizations within different states than between different organizations from the same state. In a word, a 'shared European cop culture' was deemed to have emerged.

Perhaps because our research has been more centred upon EU decision-making, our own findings do not, however, suggest that such a high level of resocialization has taken place alongside the deepening of the EU's role in policing. Nor have the actors involved in Council negotiations in the name of either France or the UK changed their basic value systems. When national actors

invoke ‘playing the European game’, this does not mean they have begun to adopt substantive and hierarchically superior European standards. Rather such representations of reality signify actor adaptation to institutionalized procedural rules which structure the way negotiations take place. Indeed, while national allegiances are of course not etched in stone, we have found no evidence of autonomized professional bodies or networks whose members simply ignore their respective national origins and sources of authority. Indeed, given that a prime driver of active engagement in EU policing issues is intranational inter-organizational competition, deep ‘European’ resocialization faces significant barriers in this sector.

### **3. POLICING AND POLITIES: CONTRASTING CONFIGURATIONS**

Jordan (2003) explains EU-induced change within the British Department of the Environment as an altering of ‘politics’ – by which he essentially means the approach of ministers to a policy sector. Like Jordan, we also embrace this focus because, as policy-specialists have highlighted (Genieys and Smyrl 2008), analysis of policy-making needs to better capture the role played therein by political elites. Nevertheless, we remain sceptical as to whether the relationship between ministers and civil servants should be studied in isolation from the institutional ordering of the policy sector itself: i.e. its place within a polity. Indeed, our concern is that Jordan concentrates too heavily upon ministers as isolated individuals rather than as members of groups or bodies that operate within structured public spaces.

Instead, drawing in particular upon Eriksen (2005),<sup>2</sup> we define a polity as (1) a structured space within which groups of state, collective and private actors compete over public decision-making while (2) publicizing controversies. Consequently, it will be argued that studying EU-provoked change of politics must encompass analysis of change in the practices not only of ministers and the officials presented above, but also those of parliamentarians on the one hand, and their interlocutors within political parties, the media and interest groups on the other. In terms of empirical research, this focus has led us to study the relationships that have emerged in the French and British polities between each of these sets of actors, European integration and the policy communities of policing. From the point of view of comparative analysis, the British polity appears more strongly linked into the making of EU policies in an institutionalized manner than its French counterpart. The projection of EU policing policy in Britain clearly still takes place in relatively a closed manner, but when compared with the French case the deep causes of this trait become more evident.

#### **3.1 Parliamentarians and ‘Euro-watch’**

Our first line of questioning here concerns how parliamentarians are informed about and involved in EU decision-making. Here there is a clear contrast

between the two states under study: French parliamentarians are erratically involved in scrutinizing the making of French positions on policing, whereas their British counterparts are omnipresent. More precisely, if French MPs increasingly use public reports to influence the construction and projection of national positions, their British parliamentarians counterparts have used scrutiny to systematically control their respective executive (Auel and Rittberger 2005: 133–5).

In the UK, reporting to parliament is highly institutionalized, thus creating the conditions for greater publicization of European issues connected with domestic security. Most communication from the Home Office on EU policy-making takes the form of documents and explanatory memos which must be sent to the British parliament. The origin of this executive–legislative relationship is to be found in a series of reforms of the British parliament during the 1990s. During this process, committees substantially overstepped their official mandate by demanding more information from the executive on issues relating to justice and home affairs, ‘thus colonising third pillar issues’ (Carter 2001: 406). Consequently, the European Scrutiny Committee (ESC) of the House of Commons and the Select Committee on the European Union (SCEU) of the House of Lords obtained two sets of new powers. First, the members of these committees can, at any time, call a minister before them to explain the government’s position. Second, ministries must constantly supply them with detailed written documentation. As a Home Office official explained to us:

Contrary to certain countries, we have no compulsory reserve. However, we have detailed rules and we have spent a lot of time on them. That means that we have to give around 75% of our documents to MPs and each document must be accompanied by a memo explaining what it is and describing the position that the government is proposing to adopt (...) our ministers can pull rank on our MPs, but only under exceptional circumstances – and every time we do that, it causes substantial controversy. I think that over the past 12 months, we have only done it once. (Interview, October 2003)

Today this is even more important because of the UK’s derogation in the Lisbon treaty for ‘opt ins’ – over each proposal in this area the UK has three months to opt in. This means approval must be sought within both the cabinet and the parliament. (Interview, UKREP, September 2010)

In addition to such empirical evidence, quantitative data on committee practice based upon documents published on the official web site of the British Parliament provide an initial take on the overall and relatively significant impact of these reforms. Since 2002, the Lords’ SCEU has not only devoted 27 out of its 268 written reports to Justice, Liberty and Security (JLS) issues, it even has an active sub-committee on this topic. Meanwhile, during the same period, the Commons’ ESC has taken oral evidence on 48 separate issues of which JLS accounts for no less than 10. Moreover, each of these committees

is engaged in a constant round of 'clearing' Executive documents on EU affairs, a process called 'the scrutiny reserve'. As the citations above highlight, this does not mean that the British executive can never by-pass its Parliament. However, it does underline that today such instances are so rare that they fall outside the norms of not only the governmental procedure but of the contemporary British polity.

In France, the involvement of the parliament in the work of the executive is generally judged to be weak, and this despite it being slightly stronger in the case of EU affairs than elsewhere (Grossman and Sauger 2007; Rozenberg and Szukala 2001). Moreover, even when parliamentarians have published public reports, a hiatus between France's administrative and parliamentary spheres is all too evident. As an interviewee from the Ministry of the Interior admitted to us in 2005:

they (MPs) do stuff but we are not sufficiently involved. There is a real lack of organisation (...).we have neglected this for the legislative function, even though it is something that must change. We are going to have to work upstream of this, which is something we are just not doing at all. (Interview, March 2005)

MPs have however since mobilized on these issues. On several occasions, they have voiced positions in favour of the protection of civil liberties. Over the EU's introduction of Passenger Name Records and SWIFT agreements, the MPs expressed strong reservations on certain parts of the legislation. In the senate, reports related to justice and home affairs are published regularly (one every year approximately). For these reports, senators undertake hearings and travel to Brussels where they meet members of the Commission or European MPs.

More generally, French MPs have attempted to adopt early positions to be able to influence positions taken by their government. They regularly hear French negotiators in order to be informed of a negotiation's evolution, with certain points (Schengen, data protection especially) attracting particular attention from the Senate. Significantly, the deputy general secretary of the SGAE in charge of these issues is the only one regularly invited to the monthly breakfast where the head of the SGAE gives account of its actions to the president of the Senate's European committee. Even if parliamentary resolutions are not legally binding, positions expressed by MPs have been used by the French government in some negotiations, e.g. over the SWIFT agreement:

The fact that parliament was taking positions rather than demanding reserves helped us to obtain certain points, to the extent that we could always argue that the parliament could then block. (Interview, SGAE, September 2010)

How can one explain such a change? Changes in legislation have progressively reinforced the French parliament's capacity for control (for instance, since the constitutional revision of 2008, every act is transmitted to the parliament, a change that enables them to react earlier). But these legislative changes must also be linked to a change in strategy by the MPs. They now adopt a more and more proactive strategy to be able to impact on European negotiations.

In the Senate, the role played by parliamentarians particularly interested in these issues has been determinant. The chair of the Senate's European affairs committee until 2010 (H. Haenel) was a magistrate particularly involved in police and judicial co-operation, an area for which he repeatedly called for a reinforcement of European co-operation during various public conferences and over which he developed several personal networks.

### **3.2 Parties, interest groups and the media as 'Euro watchers'**

Of course, to fully understand the differences between the degree of integration of British and French parliamentarians in European domestic security, it is important not to reduce this question to the bilateral relationship between executives and their respective legislatures. The structuring of national public spaces, and more particularly, the content and tone of general national debates on the EU, also have a strong impact on the relationship established between sectoral policy communities and public spaces. Our findings strongly suggest that this impact is mediated by the posture of political parties in relation to European integration, the way in which journalists from each country present EU news and how different pressure groups publicize issues relating to internal security.

*UK: watchdogs with teeth* – As is well known, since the beginning of the 1990s, the Conservative Party has hardened its Euro-sceptic position, whilst Labour has shown itself more favourable to greater involvement with the Union. Nevertheless, at least in the field of policing, political competition between these two parties pushed even pro-Europe Labour MPs to nuance their public positions. This phenomenon was clearly observable when Labour ministers consistently sought to publicly show that on justice and the policing issues they 'were not prepared to give up British sovereignty'.

This posture must also be explained by the 'politicized' character of media coverage of EU affairs in Great Britain. In general terms, British journalism tends to take up political positions in public debate (Tunstall 1996) and the theme of European integration has exacerbated this trend (Vetters *et al.* 2009). Indeed, the structuring of the UK media contributes strongly to a 'national matrix of interpretation of Community news' which 'translates' information disseminated by EU bodies 'according to the terms of national political competition' (Baisnée 2003: 422 and 476). In the case of domestic security, this 'domestication' of European news thus tends to reinforce a 'security-biased' presentation of issues relating to the third pillar.

Lastly, the strength of this security-based news is affected by a final component of public spaces: pressure groups in favour of 'protecting civil liberties'. In the UK, groups of this kind not only enjoy the support of MPs and the left of centre press, they are also extremely attentive to the way in which the EU has invested in domestic security. The most emblematic is 'Statewatch'. Founded in 1991, this organization presents itself as a network of 'lawyers, journalists, researchers and social activists' which encourages journalism and scientific

research that is critical of the way in which public authorities respect civil liberties. Statewatch's engagement in the EU is longstanding and it regularly participates in parliamentary hearings. Indeed, Statewatch is part of an ensemble of participants of the British public space which requires ministers and MPs to debate publicly on the content of European domestic security policies (Carter 2001: 406). Despite the smallness of their staff and formal resources, in the UK such 'whistleblower' groups are frequently able to punch above their weight because of a press that is generally Euro-sceptic and keen to publish statements by opposition parliamentarians eager to embarrass the government of the day over 'European' issues.

*France: passive onlookers* – In France, public debate of the British sort over EU's involvement in policing is largely absent and this is because the national political space rarely becomes animated or divided about European integration in general and EU issues relating to domestic security in particular. First, for the main political parties, questions relating to how the EU is governed have not been clearly discriminatory since the 1990s (Sauger 2005). On the contrary, only parties 'of protest' consider European integration to be a 'political' issue which requires permanent public or parliamentary monitoring. In the French parliament in particular, police co-operation is rarely a divisive issue, in contrast to immigration where left-right cleavages play a major role. Secondly, 'the media which are already not highly politicized, generally agree on the benefits of the EU (and) more or less adopt the journalistic register of institutional information' (Baisnée 2003: 439). Finally, in the field of domestic security, the French public space contains no pressure group which demands that representatives of its state make their European positions more public. Unions of magistrates and lawyers have been silent on the policy developments on these issues. When positions are expressed, they remain disconnected from governmental positions. Here the example of mobilizations in favour of a European prosecutor in 2000 is emblematic: if some French magistrates were individually mobilized in a transnational coalition, advocating this project, and if some French magistrates' organizations also expressed positive views, they never managed to connect their cause with French ministerial positions. In short, France's national public space is comparatively insensitive to EU issues in this field. It follows that actors from the policy community in the policing sector have always been free to prepare and defend France's position without having to concern themselves with how it was going to be received by a less initiated public. Ironically, however, this isolation also appears to have encouraged intra-administrative competition and even conflict.

In summary, from the point of view of Franco-British comparative analysis, our focus upon the impact of polity upon organizational arrangements and debates over the substance of EU policy helps to unveil a number of important traits about both national cases. Whereas in France 'projection' over substantive policies is dominated by specialized police administrators and generalist civil servants, using a technicized mode of argumentation, in the UK, such actors are structurally obliged to include politicians, the media and interest groups *within* a more politicized national process of projection. Significantly, our

findings here run counter to the conclusions of political communication specialists like Statham who has conducted a Franco-British study of EU newspaper coverage. From this, he concludes instead that ‘French actors have built an “open” channel of communication (...) allowing for processes of deliberation on the EU’s political role’ (Statham 2007: 120), whereas ‘in Britain, the “closed” form of European debate through internalized national communications is most prominent’ (Statham 2007: 121). Not only does our research lead to a different point of view upon the way the EU is actually debated within the French polity, it also makes the case for an alternative viewpoint on public spaces that takes into account the precise mechanisms through which Executive-public space relations occur.

Indeed, more generally, our analysis also shows how the relationship between organizations and the polities within which they operate can be empirically researched. It advocates that the sector–polity relationship can and should be studied to grasp the layers of politics which European integration entails. More comprehensive explanations of these differences between the French and the British cases can of course only be developed through new empirical enquiries. Nevertheless, our own study indicates that the main hypothesis that needs investigating in future research concerns the evolving framing of the EU within national polities and, in particular, the role of parliaments, the media and interest groups therein.

#### **4. CONCLUSION**

Overall, our findings on the ‘projection’ of French and British preferences into EU police policy-making engender two conclusions about what has changed and why, as well as a third about the added-value of sociological public policy theory.

First, the making of these European bodies and norms certainly has changed the way the relevant administrations of these countries are organized and operate. More precisely, through engaging in the substance of EU policy-making, national civil servants and representatives of the police have modified their intra-organizational, inter-ministerial and extra-national modes of consultation and negotiation. Consequently, and despite the relative weakness of constraining EU law and policy in this field, an EU space of public action in the field of policing has emerged and been institutionalized (De Maillard and Smith 2007). In other words, in both these member states, EU-induced change has taken place to the extent that actors engaged in EU negotiations have adjusted their knowledge and know-how in order to take into account the norms of ‘the EU game’. Importantly, in the policing sector, this has not amounted to change in systems of allegiance or ‘transnationalization’. Rather, actors tend to oscillate between the desire to seal EU agreements and that of preserving their perceived ‘national interests’ against a backdrop of considerable intra-administrative domestic rivalry. Consequently, convergence found here in the French and British cases is not a synonym for the adoption of ‘Brussels-centred’ thinking,

but rather amounts to the re-definition of policy objectives and organizational cultures through engaging on a daily basis within an EU space of public action. Just as importantly, adapting to EU engagement by no means signals the end of inter-administrative competition. As the French case highlights, the causes of such conflict are deep and cannot be overcome simply by exhortations about the functional need to co-ordinate better.

Second, although in both France and the UK, this emergence of an EU space for policing policy-making has largely been constituted by the progressive deepening of interdependencies at this scale, it is mainly in the British case that change in projection mechanisms has also been shaped by 'polity'. As Section 3 has sought to highlight, the advantage of building a carefully defined conceptualization of 'polity' into studies of such change is that it obliges analysis to treat this category as a potentially structuring determinant of both the organizational ordering and the policy substance, not just some vague endogenous 'context' for sectoral activity. Indeed, by defining polity in a way that identifies the actors concerned and opens them and their interactions up to empirical study, we have proposed a framework for future study that could be extended considerably beyond the policing sector.

Finally, this text has begun to show the added value of a HI research design that is also driven by sociological public policy theory. In particular, by revealing the highly *differentiated* types of change observed in the French and British policing sectors, this approach reveals in a concrete fashion some key traits of the difficult articulation between the political arenas of the EU and those of its member states. Indeed, what seems most significant in the policing sector is the gap between a growing number of EU-wide regulatory instruments on the one hand and, on the other, the national polities which continue to constitute the principal political spaces for either legitimizing or delegitimizing this legislation and policy. Indeed, by providing tools for simultaneously analysing organizational competition within sectoral policy communities and the relationship of the latter to their respective polity, HI theory becomes more sensitive to both agency and structure.

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## NOTES

- 1 Commissioned by the French *Institut National des Hautes Etudes de la Sécurité*, the first round of research upon which this paper has been written took place in

- 2004–2005. Additional work was undertaken in 2010. In total, about 50 interviews were conducted in both countries.
- 2 Surprisingly, social science rarely defines the concept of ‘polity’ with precision. Eriksen attempts to do so by considering that a polity possesses three institutionalized elements: a ‘space’ with an external border or boundary; structured groups of actors capable of collective action; durable modes of conflict mediation (2005: 3).

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