

THE EUROPEANISATION OF JUSTICE AND HOME AFFAIRS: SECTORAL COMMUNITY WITHOUT A POLITY

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The Europeanisation of national policies remains an ill-defined area of research which is characterised by contrasting definitions of Europeanisation. It is therefore important to start by establishing how we interpret the term. We use it here to talk about the way in which domestic, political and administrative organisations adapt and modify their frames of reference and action in connection with European integration. This is a broad definition which can be distinguished from the much more restricted one offered by Radaelli (2001)¹. Whilst we share with him the desire to address all dimensions of politics, policy and polity, we feel it is unreliable to consider that there are norms and ways of going on which could be developed at European level and then incorporated into national approaches. Europeanisation processes are better seen if viewed as something more flexible (and/or less Brussels oriented), i.e. on the basis of national modes of mobilisation of administrations and in the way in which their approaches are re-

¹ Nb: Radaelli defines Europeanization as a “process of a) construction, b) dissemination and c) institutionalisation of formal and informal regulations, procedures, public policy paradigms, styles, “ways of doing things” and shared beliefs and standards which are first and foremost defined and consolidated in the creation of European policies and then incorporated into the content of messages, identities, political structures and domestic public policies” (2001, P.110).

institutionalised (without necessarily using existing European regulations as a starting point).

According to Jordan (2003), it follows that we can distinguish here between three interdependent levels of Europeanisation: the organisational dimension (State structures, its administrations, administrative cultures, etc...), public policy programmes (laws, action plans, etc...) and politics (speeches, partisan positions, the roles of interest groups). What we will try to demonstrate through a differentiation between these levels is that dissimilar types of Europeanisation exist. On the one hand, we witness a Europeanisation approach in public action which is real but limited: the justice and domestic affairs area becomes subject to negotiation, requiring national administrations to adapt, reorganise and even socialise for Europe. This Europeanisation approach nevertheless remains limited: European standards are primarily non-restrictive, hence the difficulty of combining competing national models. However, and this is the second level, this approach only involves a very low level of “political” Europeanisation dynamics. Few political speeches are written and delivered on issues in which the media are not interested; national and European parliamentarians remain on the margins of a technicised process, from which interest groups and social movements are mostly excluded. More fundamentally, the form of Europeanisation observed here very clearly shows a number of key characteristics of the European political domain and its (difficult) accommodation with the national political theatre.

Our area of research therefore concerns domestic security policy, i.e. the European Union’s “third pillar”. Unlike the CFSP or immigration policy, this area of public action, concerning police and judicial co-operation has, for the moment, been the subject of little political study, in spite of the initial works by Bigo (1996) and Anderson (Anderson et al. 1995). After the phase of European co-operation in “*archipels*” (Bigo, 1996), marked by the disorganised development of clubs and networks which sprung up in parallel with the European Community, domestic security became the “third pillar” of the

EU with the Maastricht Treaty. On the basis of an empirical study², this paper seeks to reveal the stuttering construction of a European professional milieu, based primarily on the study of French and British civil servants involved in negotiations in this field. Thus, our study is based on the ministerial organisations responsible for European affairs, transversal consultation bodies, permanent representations in Brussels – i.e. those bodies responsible for matters relating to justice and domestic affairs – within the two countries.

The first part deals with the main adaptations of the ministries concerned and sheds light on the different levels of institutionalisation of the chosen organisations when faced with the European challenge. In this part, we will be emphasising the forms of specialisation of professionals involved in European co-operation and the associated knowledge and know-how they need. The second part seeks to demonstrate that the Europeanisation process does not remove the pressure of State and national constraints: in the definition of the issues or the action instruments chosen, we note only a minor impact of the European Union. Finally, the third part examines the forms of integration into national policy strategies. What seems significant in this area is the discrepancy between a dynamic of growing regulation at European level and the various national political societies which are little affected by European impetus in domestic security. New European orientations are rarely discussed during debates which have a decidedly national feel. This disassociation between regulation and legitimation does, however, take on a different look in the two cases studied here: whilst British negotiators are subject to greater political pressure, in France, European negotiations on issues relating to justice and domestic affairs are more likely to be led apart from external actors. From the point of view of analysing Europeanisation, this means that it is important to clearly distinguish between the types of political change observed and, more particularly, any changes observed in public policy, politics and polities.

1 – “Thinking European”: national administrations in Europe

² This was a collective research piece, supported by the *Institut National des Hautes Etudes de la Sécurité*, directed with Marie Gautier (Institut d’Etudes Politiques de Toulouse). This research (de Maillard & Smith, 2005) concerns modes of negotiation linked to the development of European policy on domestic justice and affairs. It is based primarily on 30 or so interviews with French and British civil servants working in their respective capitals and in Brussels.

This question of the Europeanisation of national administrations, as we have said, must take account the organisational forms of adaptation, as well as the types of civil servant careers, beliefs and working methods for those involved in European negotiations. On each of these aspects, we will look at changes linked to the process of European integration. And we will see that socialisation to the EU institutional theatre results in an understanding of what we call “the European game”.

1.1 – Organisational adaptations

Whilst the different interior and justice ministries have been substantially involved over recent years in international issues in general and European issues in particular, they have done it at a different pace depending on the objectives sought and the missions allocated to them. The air and border police or customs services for example, had had their eyes turned towards Europe for a long time on account of the conditions of transformation of public action. This resulted in attempts at structural rationalisation which differ from one country to another. Here we will concentrate on our two cases, i.e. France and the UK, which present interesting characteristics because they are starkly dissimilar from two points of view: France is characterised by the co-existence of two police and justice entities and a high level of centralisation, whilst the UK is characterised by the monopoly of the Home Office and the existence of numerous local police forces.

In the UK, where the policing system is devolved into 52 local police forces (Swallow 2002, p.59), the main organisational innovation linked to European integration was the creation of the NCIS (The National Central Intelligence Service) in 1992. Firstly, for intelligence missions, the NCIS broadened its remit to include international police co-operation, enquiries into international financial crime and certain aspects of the fight against terror. In France, diverse strategies have been put in place. The main thrust involves “singing from the same hymn sheet”, at both intra- and inter-ministerial level. The ministry of justice reorganised at the beginning of the 1990s under the direction of the then minister, H. Nallet, with the creation of a specific department responsible for European and international affairs called the SAEI (*Service des Affaires Européennes et Internationales*). This department plays a key role in European negotiations, to the extent

that the construction of “justice” policy cannot be done without it. The ministry of the interior however had great difficulty in creating a single representative body for its European negotiations. Depending on the topics, it may be the cabinet of the *Directon Générale de la Police Nationale*, the central border police department or the judiciary police who take the lead. And often, these different departments have difficulty in agreeing on a common message. Although during J.P. Chevènement’s time at the ministry of the interior, there was some movement towards internal rationalisation with, in particular, the creation of the DAI (*Délégation aux Affaires Internationales*), this was not to last: as soon as its initiator had left, this transversal unit lost its members and the vertical departments took back the reins. At inter-ministerial level, as justice and domestic affairs policy took on increasing importance on the EU agenda, a justice and domestic affairs unit was set up both within the SGCI and the Permanent Representation in Brussels.

These reorganisations also reflect the increasing amount of time dedicated to European missions. Within the Home Office, an institution which until then had had very few international links, it was calculated that in 1998 “some 68 agents of the home office currently spend the majority or all of their time on matters concerning the European Union” (House of Lords, European Committee Report 1998, cited in Den Boer and Wallace 2000, p.503).

1.2 – The nature and meaning of the “European game”

These specialisations require familiarity with European issues and more precisely, an understanding of the ins and outs of Brussels. Our contacts in the ministries, the SGCI and the PR, are used to the to-ings and fro-ings of Brussels, “a poorly-lit swamp, full of many-headed beasts”, to quote the expression used by one of our interviewees. They know or think they know the negotiation mechanisms involved. Those mechanisms require an understanding of a certain number of regulations, knowledge and know-how which then immerse in negotiations with the other member States of the Commission. More precisely, two types of expertise prevail during these negotiations: defensive and offensive. In defensive mode, know-how is expressed through a command of recurrent

formulae used in negotiations: “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, October 2004). It is expressed through tactics which are used to identify allies ahead of discussions in order to block a proposal or to attempt to foresee problems matching with national legislations during negotiations. In offensive mode, it is to do with being able to defend or even “sell” your own national model, whether within the different groups responsible for drawing up guides of good practice or in bodies dealing with training modules (as in the European police college or during negotiations concerning the AGIS programme).

Many seem to enjoy this constant game of negotiations, temporary alliances and shifting groups of allegiance, showing a certain “understanding of the European game”. They enjoy the inventiveness required during these negotiations and the legal compromises that have to be dreamt up. This question of an understanding of the European game raises the issue of the possible shifting of systems of allegiance: would actors of police co-operation opt – more or less consciously – for forms of professional solidarity, making them autonomous from their home state? It is a hypothesis which has been addressed in certain studies on police sociology, and in particular in the works of D. Bigo (1996)³. According to him, we are witnessing a fundamental but silent revolution which will see the trans-nationalisation of police bureaucracies. European police co-operation is characterised - in his view - by autonomous networks of national approaches. Such co-operation would be based on professional solidarity, co-operation being easier between the same departments of different nationalities than between the different departments of the same nationality. Agents operating within this police field who are in regular contact and sometimes have created friendships with their counterparts, enjoy a degree of complicity, “based on a shared belief and knowledge about the world which surpasses the understanding of the public but also the understanding of ordinary politicians” (1996 p.51).

³ cf. also the works of Matthieu Deflem (2002) for a broader perspective of international police co-operation. He hypothesises that the more autonomous the police are from their respective political centres, the more likely they are to commit to international co-operation (p.21).

2 – Limited Europeanisation: beliefs and national modes of organisation

Within the European Union, the observations of our own inquiry into the resocialisation of national civil servants has show that this hypothesis of autonomisation of representatives of member states lacks credibility. It is possible to imagine that this type of transnational solidarity has an effect in the cases of forms of operational co-operation for the Channel Tunnel, within Europol or within centres of police and customs co-operation, and even in those cases, a more serious study would be required to verify this. But negotiations within the Council of Ministers do not merit such a hypothesis⁴. When we talk about the “nature and meaning of the European game” it does not mean adopting substantial overriding European standards but rather, procedural rules which relate to the way negotiations are led. Whilst national “models” are not etched in stone, it does seem difficult to accept that a sort of autonomised professional body may develop in spite of national origin. This implies a severe limit to the Europeanisation process, which we will look at from two points of view: the definition of public issues and instruments of action. This strong opposition between different national models is crystallised in the mode of European government of this area of public action: the production of “soft” law.

2.1 – Positioning in respect of European projects marked by national origin

It is clear that for certain police officers, there are highly federalist representations of the future of European police forces, some of them even speak about a “shared cop-culture in Europe”, (Anderson et al. 1995, p.79). But the Europeanisation of justice and domestic affairs issues is characterised by recurrent conflicts and tensions between the different national representatives (cf: Maillard and Smith, 2005). These perceptions and approaches linked to national origin are to be found as much in European projects as amongst the actors responsible for promoting them.

Institutions created by the European Union such as Europol or the European Police College (a network of national training institutes) are perceived from a national standpoint. As far as Europol is concerned, divergent views between British, German, French

⁴ This thesis is suggested by the works inspired by sociological institutionalism (Lewis, 1998): within the Council of Ministers, there seem to be specific standards which contribute to redefining national interests. cf: our discussion on this thesis in de Maillard & Smith, 2003.

and Dutch officers for example, have existed since the institution was set up: whilst the Germans and Dutch were the most fervent supporters of Europol with powers close to those of a federal police force, the British remained the most closely attached to an inter-governmentalist interpretation, a view shared by the French (Anderson et al. 1995, p.81). Several years later, the situation has hardly changed. For many French officers, the German interpretation of Europol in fact is tantamount to a hidden national agenda and a way of counter-balancing the difficulties faced the BKA (the German Federal Police Force) to hold any sway over the police forces of the Landers: “beyond the minor disputes over the management of Europol, whilst Germany pushes for more and more Europol and Eurojust, it is plainly because it helps them to find out what’s going on at home...” (interview, October 2004). Such reticence explains the little forward impetus achieved by Europol: Europol is far from having the powers of a veritable federal police force: Europol personnel are not dispatched to offices around the Union and they don’t have the power to initiate criminal investigations, carry out searches or make arrests (Occhipinti, 2003).

This perception, marked by national interpretations, is also seen in relations with supra-national organisations, in particular the European Commission. The latter, in particular for the major member states, is seen as an adversary, doing all it can to instil a transnational logic where co-operation should be international. Early initiatives such as Trevi and Schengen, for example, were marked by a desire to avoid the Commission and to set it up “between” states. This latent hostility towards the Commission is still in evidence. The Commission’s strategies are interpreted as a threat to state sovereignty, characterised by trickery. The Commission’s proposals for the setting up of a European prosecutor and a European police academy have received a cool reception from member states and remain highly hypothetical at the moment.

2.2 – Relatively non-compulsory action mechanisms

The associated question is to do with the impact of European policies on national structures from the point of view of public initiative mechanisms. Does European policy on justice and domestic affairs trigger the adoption of specific public initiative

mechanisms? The example of organised crime is interesting because this theme is now on the political agendas of both all European states and the European Union. To what extent does the EU contribute to guiding, structuring and framing the priorities established and instruments adopted by the member states? In 1997, a European action plan against organised crime was undertaken, followed by another in 2000 called the “Millennium Plan”, which outlined a whole series of reform recommendations that the member states were to follow. An audit drafted by Den Boer (2001), further to a study in the 15 member states, shows the incremental nature of change caused by the different European plans. Here we will concentrate solely on the French and British examples. In France, many multi-disciplined teams were set up during the early ‘90s (and this, long before European plans to fight organised crime); in the UK, the NCIS was set up in 1992, followed by the national brigade in 1998 in addition to the regional forces already in place. However, none of these reforms can be traced back to the impact of the European Union.

The reader may note that the Millennium Plan against organised crime contained “recommendations”. This is one of the fundamental characteristics of European law on domestic security; soft laws are what the European institutions do best. The EU has thus a particular taste for manuals of good practice and catalogues of recommendations, networks, suggestions and resolutions (cf. Maillard and Smith). According to numerous practitioners, these instruments, and in particular the “good practice guides”, have the profound merit of offering a means of managing the diversity of national *modus operandi* whilst proposing a model for harmonisation of those modes on the basis of an alignment with best practice. Creating a guide of good practice means accepting to talk about what happens in your own country without being bound. This soft law is both an indicator and a factor of this limiting Europeanisation process affecting public action: it reveals the contrasts between the different national models whilst only imposing relatively minor requirements on transformation. It corresponds to what Bulmer and Padgett (2004) call “facilitated unilateralism”, i.e. a situation whereby the member states do not adopt compulsory rules and deliberately decide (or not) to transfer models, recipes and standards which exist elsewhere. We will now look at how these different dynamics play what is a minor role in the European and national political field.

3 – Domestic security as a relatively un-Europeanised political phenomenon

Whilst the negotiation theatres of the European Union which specialise in police and justice affairs sometimes manage to come up with complementary or even alternative standards, their political objectives lack recognition and legitimacy. In other words, domestic security illustrates a type of Europeanisation which results in a form of incomplete institutionalisation since its regulation at European Union level is hardly accompanied by any political effort to legitimise it. Indeed, one of the major issues addressed in our research targets the reason for this dichotomy. In order to do this, we looked at the legitimisation strategies observed in the field of domestic security considering that in any political area, legitimisation is to be found between two model ideals (Radaelli 1999; Smith, 2004b):

- *legitimation through publicisation* is identified when the actors involved in formulating public policy regularly address the media and commit openly in their alliances with social groups, present their arguments by talking about values, advance the symbolic dimension of themselves and their challenges and “embrace” the political conflict by disqualifying and stigmatising their respective adversaries;
- *legitimation through technicisation* on the contrary is demonstrated when those involved in public action choose to negotiate behind closed doors with policy insiders, avoid the media, base their argument on expert reports, play down the conflict by concealing disagreements with their contacts or concentrate on political action theories and standards so as to better banish the role of values and symbols in politics.

Of course, these are only the two extreme ends of a continuum. Furthermore, in practice, legitimisation often comes as a combination of a publicisation and technicisation. For us, the main interest of this distinction is that it allows us to:

- note that the development of European policy on domestic security has been practically exclusively based on a highly technicised register;
- seek hypotheses which explain this tendency in representative bodies and the practices of those involved. More precisely, our analysis was based on configurations of actors, representations and relations within three types of mediation structure⁵ observed in this field:

<i>Sector-based community</i>	<i>inter-sectorial spheres</i>	<i>The agora</i>
professionals (police, lawyers) senior civil servants	ministers and cabinets Commissioners and MPs	political parties, the media pressure groups

In a fully institutionalised polity, the degree of overlap and interdependence of these three types of area is high. In the case of the European Union however, the strength of its dominant logic – sectorisation – is such that there is a tendency for the gap between these three types of sphere to widen. In the case of domestic security, this hypothesis is supported upon closer analysis of the effects which are specific to a European institutional order (3.1) and of those specific to a national institutional order (3.2).

3.1 – The European Union: a technicised and technicising institutional order

Elsewhere, we have seen (Smith, 2004a) the extent to which the European Union has to be analysed as an institutional order which has developed, encouraging protagonists who interact within it to avoid strategies of legitimation based on publicisation. This general hypothesis is confirmed with some clarity in the field of domestic security, for at least three reasons.

The impact of the organisation of the Council of Ministers

The characteristic of the part of the Council dedicated to police and justice affairs tends to reinforce the sector-based approach of this area of public action and to distance those who work there on a day-to-day basis from the rest of Europe’s other political fields. First

⁵ These types of structure are defined in Smith (2004a, p.72-75)

is the existence of a specific, even hitherto unknown level which “prepares” ministerial meetings. In most of the areas of the European Union’s activities, white papers discussed during these events are formatted through extensive work carried out initially by the working groups of the Council and then by the Committee of Permanent Representatives of member states (COREPER, on this point cf: Fouilleux, de Maillard, Smith, 2004). In the case of domestic security however, the work of these entities is supplemented by that of the Article 36 committee (the CATS). It is made up of senior civil servants who are specialised in police and legal affairs, and one of its impacts is to strengthen the tendency to keep discussions behind closed doors. As one of our interviewees said, “we have managed to preserve an intermediary level... for us this is necessary, it allows us to have an overall view of the topics dealt with, whilst at the same time keeping it between ourselves...” (interview, July 2003).

The second characteristic of the functioning of the justice and domestic affairs council concerns the use of unanimous voting. This principle does not systematically apply since member states are often bound by constraints within the networks due to multi-faceted negotiations which prevent them from making systematic use of this formal power. It remains however, that this is not only a weapon of negotiation for state-based negotiators, but also a substantial obstacle to the publicisation of European issues in this field. Avoiding the use of the veto involves the intensification of alliance-building based on need, and the constant search for consensus allowing minority national delegations to make concessions without losing face. Naturally, these objectives are more easily achievable when negotiations are carried out behind closed doors, rather than in an environment which might generate publicity.

The reduced influence of the Commission

Numerous empirical analysis of the Europeanisation of areas of activity concerning the “first pillar” insist on the role of political entrepreneur played out during these processes by the agents of the European Commission (Radaelli, 1999). Based on the monopoly of its right to initiate Community legislation projects and the degree of specialisation of its members (Page, 1997), the Commission is well placed to formulate public problems at

EU level, invent public action instruments and steer the negotiation of directives and regulations which bring them into Community law. In the case of domestic security however, three of its characteristics mean that the representatives of the Commission find themselves in a more non-centred, vulnerable position.

The first of these characteristics concerns the replacement of the monopoly of initiative by the right of initiative that the Commission shares with the governments of its member states. Whilst in spite of this difference the Commission remains the main source of initiatives in the field of domestic security, it is still true that its legitimacy is reduced. The relative marginalisation of the Commission in this area is explained by the low level of specialisation of the civil servants working for the justice and domestic affairs DG: “There are no officers or magistrates in the Commission... This is the real problem of the Commission’s credibility... Or if they have been police officers or magistrates, they have never seen a delinquent in their offices or in the street; they are technocrats, interchangeable officers who switch from one DG to another, from the Enterprise DG to the Justice and Home Affairs DG, as you or I might light a cigarette...” (interview with the PR, October 2004). The agents of the Justice and Home Affairs DG are perceived as being “low specialisation” by their contacts who are police officers and professionals from the justice field. Not only are these professions present in the advisory committees of the sector and the working groups of the Council, but the Permanent Representatives (PRs) of the member states have a strong tendency to identify with those body rather than with senior civil servants of the “generalist” type. Whilst the legitimacy of the Commission’s civil servants to intervene substantively in domestic security is strongly contested, that of their “political” superiors – the European Commissioners – is just as questionable. The previous Commissioner (Antonio Vittorino) responsible for Justice and Home Affairs, although showing real involvement on issues concerning immigration, nevertheless remained rather inconspicuous on issues relating to police work co-operation. But it is also important to take into account and understand the silent stance of their opposite numbers in the sector. The college of Commissioners is supposed to constitute an intersectorial arena where each of its members can intervene to affect legislation proposals established by the DGs and their various departments (Joana and

Smith, 2002). We can but note, however, that practically no Commissioners can be considered legitimate actors in the field of domestic security.

The absence of the European Parliament

Whilst the legitimacy of the Commission to intervene in this field is low, that of the European Parliament is just as low, thus giving the convincing explanation of the force of a technical discursive register. Indeed where, at nation level, parliaments are intersectorial arenas focused on the publicisation of the issues of public action, the European assembly only rarely manages to play this role even generally, and even less so in the area of domestic security. Explanations concerning the technical role of the European Parliament are well known (in direct influence of decisions, absence of European political careers, absence of European political rhetoric: Abélès, 1992). On the subject of domestic security, this characteristic is even more pronounced because, unlike cases dealt with under the first pillar, the European parliament has not been integrated into the procedures of the Community legislative process controlled by “co-decision”. Of course, the Parliament includes a “Commission of civil liberties, justice and domestic affairs” which regularly publishes often very critical reports on issues concerning domestic security. But not only does this committee have no institutionalised involvement in the decision-making process at Community level, but is also one of those parliamentary committees populated by the fewest European politicians (Den Boer and Wallace, 2000, p.509). To summarise, in this sector of public action, the European Parliament remains just as powerless and unpoliticised (assessed in terms of their capacity to publicise the issues) as it was in almost all areas before the introduction of the Maastricht Treaty.

3.2 – The partial integration of national mediation structures into the sphere of European government of domestic security

Whilst this technocist tendency within and around Community bodies is based on the decision-making mode which is specific to the European political area, it is also simultaneously associated with the sustainability of national political configurations.

More precisely, the degree of interdependence between areas of Community and national mediation which constitute the government of the European Union is such that the former is a structure of the latter and visa versa. In the case of domestic security, our research into British and French structures shows that localised political resources which are mobilised in the national sphere remain strong. Indeed, compared to other sectors, the latter still benefit from a substantial degree of autonomy in relation to Community mediation space polity. It remains true however, that its form is very different in these two national cases. In the UK, the sector-based community substantially overlaps the inter-sectorial areas and the Agora. In the French case however, the frontiers between the “Parisian” mediation areas are a lot more water-tight. More precisely, representatives of the sector-based community have greater sway over the inter-sectorial and public debate. By successively comparing each of the types of public sphere observed in the two national cases, we are looking for hypothesis which would explain in more detail and extend the overall analysis of institutional orders.

The water-tightness of sectorial communities

On both sides of the Channel, the creation and day-to-day management of domestic security policies is carried out within communities of actors whose membership is highly stable. Made up of representatives of ministries and professionals from the sector, these two configurations also include strong interdependence and shared rules of play. In spite of these similarities however, the dominant dynamic of each of these sector-based communities is clearly distinguishable. In the case of the UK, the sector-based community is based on two main organisations which are constantly seeking consensual public positions. Indeed, between an all-powerful ministry (the Home Office), a relatively unified police profession (around the Association of Chief Constables) and a magistrature which has a fairly low profile in the creation of public policies, there are ingredients which contribute to clarifying the positions defended by British representatives within the community mediation sphere. In a similar way, the high degree of cohesion of this sector-based community allows it to undertake an offensive public communications policy on issues affecting European security. More precisely, as we will see later, in this political sphere where the national parliament is closely involved in the European activities of the

sector-based community, technicising the issue of domestic security is difficult and even politically dangerous.

By comparison with the UK, the French sector-based community appears fragmented and less able to hammer out consensual “European” positions. First of all, it is divided between the specialists from the police on one hand and those from the justice sector on the other. Whilst it would be an exaggeration to say that the initiatives taken by these professions prevent the French government from “speaking with a single voice” in Brussels, the constant negotiations which are necessary to manage to achieve it discourage public position-taking. Furthermore, the need to accommodate a precarious balance within the sector-based community means that the publicisation of any domestic security issue which may potentially be destabilising is generally shouted down.

The connection between inter-sectorial spheres and community public action

The degree of tension and conflict which characterises each sector-based community has a profound effect on the relationship that it maintains with its respective inter-sectorial spheres. Either in the form of relations with inter-ministerial bodies or in the form of the relationships established with their respective parliaments, inter-sectorial mediation offers a second indicator as to the causes of the modes of publicisation developed for “European” domestic security.

In France, the divisions between police, gendarmes and magistrates that we have just referred to are the subject of formalised negotiations within the SGCI. Although, as other research has shown (Eymeri, 2002), this body allows the French government to establish official positions on all European issues within the required time-lines, as we have seen, it is important not to over-estimate its transversal and inter-sectorial nature. Most of all, this way of creating a “national position” implies very few overtures to the social groups which are localised in civil society. In a word, it is a highly technicised and reactive form of inter-sectorial mediation compared to the state of negotiations led in Brussels.

On the subject of French parliamentarians, they are informed on the state of Community negotiations. Their indirect influence is greater because the functionaries of the ministries, the SGCI and the PR constantly second-guess the probable reaction of the National Assembly and the Senate on decisions which will be taken “in Brussels”. It is safe to say then that parliamentarians are absent from the fabric of the French position in terms of domestic security. It remains true however that the system of “co-ordination” put in place does not much help the more dense consultation and mediation fora which offer publicity and legitimacy. Indeed, the involvement of the parliament in the work of the executive is judged insufficient for many. For example, a report from the *Commissariat Général au Plan* concerning France’s European policy overall, regrets that the practices of parliamentary reporting is less frequent in France than in other European countries (2002, p.39). An interviewee from the ministry of the interior admitted that in the case of security, this hiatus between the administrative sphere and the parliamentary sphere is all too evident: “they (MPs) do stuff but we are not sufficiently involved. There is a real lack of organisation (...). There is an annual report from the parliament on fundamental rights. However, we try to react. But 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).

In the UK, the inter-ministerial co-ordination system is less formalised than in France, although reporting to parliament is much more so, thus creating the institutional conditions for greater publicisation of European issues connected with domestic security. Most communications from the Home Office take the form of documents and explanatory memos which are sent to the British parliament and which may have a knock-on effect to the media and pressure groups outside the sector-based community. The origin of this executive–legislative relationship is to be found in a series of reforms of the British parliament brought in during the 1990s for which two developments were catalytic (Carter, 2001). First of all, between 1992 and 1998, the ratification and implementation of the Maastricht Treaty incited the European Committees of the Commons and the Lords to carry out systematic assessments of their respective procedures in the area of community legislation scrutiny. Here, as C. Carter (2001, p.406) points out, it is

important to understand how these committees have substantially overstepped their official mandate by demanding more and more information of the executive on issues relating to justice and domestic affairs, “thus colonising third pillar issues”. The second catalyst of the heightened involvement of the British parliament in this area was the 1997 election of a Labour government committed to reforming parliamentary procedures. During the following year, the European Scrutiny Committee of the House of Commons and the Select Committee on the European Union of the House of Lords obtained two sets of new powers. First of all, the members of these committees can, at any time, call a minister before them to explain the government’s position. Also, the ministries must constantly supply them with detailed explanatory memos. As an officer of the Home Office 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 the 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).

Agoras with variable focus on “Euro-watch”

However, so as to 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 Agoras, and more particularly, the content and tone of general national debates on the European Union, also have a strong impact on the relationship established between sector-based communities and the inter-sectorial spheres. Although our own research does not demonstrate this in any detailed manner, it strongly suggests that this impact is especially mediated by the posture of political parties in relation to European integration, the way in which journalists from each country present community news and how different pressure groups publicise issues relating to domestic security.

In the UK, the attitude of the political parties in relation to European integration has been well documented (Alexandre-Collier, 2002). At least since the beginning of the '90s, the Conservative party hardened its Euro-sceptic position in general terms, whilst Labour showed itself more favourable to greater involvement with the Union. The fact remains however that political competition between these two parties has even pushed pro-Europe labour members to nuance their public positions. This phenomenon is clearly observable in the area of domestic security where, once in government, Labour ministers bend over backwards to publicly show that on issues relating to justice and the police, they are not prepared to give up "British sovereignty".

This posture can also be explained by the "politicised" character of media coverage of European affairs in Great Britain. In general terms, journalism there tends to defend precise political options and therefore takes positions in public debate (Turnstall, 1996). The theme of European integration has substantially exacerbated this trend (Anderson and Weymouth, 1999). Indeed in the UK, the structuring of the media contributes strongly to a "national matrix of interpretation of Community news" which "translates" information disseminated by the body of the Union "...according to the terms of national political competition" (Baisnée, 2003, p.422 and p.476). In the case of domestic security, this "domestication" of European news then tends to reinforce a "security-biased" presentation of issues relating to the third pillar.

Paradoxically however, the strength of this security-based news is in contrast with the ideological content of a third component of the British political forum: pressure groups who are in favour of the protection of civil liberties. Indeed, in the UK, the pressure groups involved not only enjoy the support of MPs and the "leftist" press", but they are also extremely attentive to the way in which the European Union is involved. The most emblematic case of this is "Statewatch". Founded in 1991, this NGO presents itself as a network of "lawyers, journalists, researchers and social militants" which encourages journalism and scientific research which is critical of the way in which the public powers

respect (or fail to respect) civil liberties⁶. For example, between 1995 and 1998, the organisation led a highly-mediatised campaign to access all third pillar documents (Van Ouirve, 1998, p.168-169). More generally, Statewatch is part of an ensemble of participants of the British Agora which requires ministers and MPs to debate publicly on the content of European domestic security policies (Carter, 2001, p.406).

In France, although more research will be needed on this point, public debate of this sort seems somewhat absent and this because the national political forum is insensitive to European integration in general and to issues relating to domestic security managed at this level in particular. Once again, when picking apart this Agora, it is easier for us to understand this observation, first of all, between the political parties “of government”, European questions have never been discriminatory (Wood, 1997). On the contrary, only the parties “of protest” consider European integration as a “political” issue which requires permanent public or parliamentary monitoring. Secondly, “the media which are already not very highly politicised, generally agree on the benefits of the EU (and) more or less adopt the journalistic register of institutional information” (Baisnée, 2003, p.439). Finally, in the field of domestic security, there is no pressure group demanding that representatives of the French state make their European positions more public. To sum up, the national Agora is not very sensitised to Community issues in this field. It follows that sector-based communities and inter-sectorial spheres of the country can almost always prepare and defend France’s position without having to worry about how it is going to be received by an uninitiated public.

Conclusion

Talking about Europeanisation is bound to be ambiguous if we are not clear in specifying what we mean by the term: in the sector of justice and domestic affairs, Europeanisation exists, to the extent that actors adjust their knowledge and know-how to take the restrictions of the European game into account, but this does not mean a change in systems of allegiance through transnationalisation. These actors are to be found in a

⁶ www.statewatch.org

vague area oscillating between the desire to sign and seal their Community agreements and preserve national interest. In other words, Europeanisation does not mean the adoption of Brussels thinking, but a re-definition of objectives and organisational identities in connection with the European public sphere of action.

Whilst that sphere is being consolidated in the domestic security field, it is difficult to come to the same conclusions for the European public sphere overall. Indeed, by developing to an essentially technical register and without the involvement of political parties, media and interest groups (with the exception of Statewatch), European policy in this area is indicative of the ineffectual nature of a truly political Europeanisation processes. More precisely, whilst the Europeanisation of public policy has clearly been marked by power struggles and highly political strategies, the process overall has not been given political direction. Deprived of registers of legitimation which are based on values and debated in discreet and, in some cases, secret arenas, this policy is a further example of the fact that the way in which the European Union is governed runs counter to the construction of a post-national political area.

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