

Comparison of Australian and EU cross-border law enforcement strategies, focusing on the area of police cooperation

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Why comparing a Union to a Federation?

Similarities: (since abolition of borders through Schengen Agreement 1985)

1. Problems relating to different criminal/criminal procedural and police laws
2. Different jurisdictions
3. Different cultures of policing
4. Maintaining 'sovereignty'

The 'Schengen Aquis'

- Abolishes the borders between EU member states party to it (by 1995)
- Sets aims to be achieved: 'compensatory' measures to safeguard security without borders
- Provides a legal framework for police cooperation of states party to it
- First states: Benelux, France and Germany

Different Levels of Cooperation Strategies and Legal Frameworks

'Higher Level':

Schengen Agreement, Europol, European Police College, Police Chiefs' Taskforce etc.
Australia: AFP, CrimTrac, ACC etc.

'Lower Level':

Bi- and multilateral treaties and agreements (Prüm, Enschede, Benelux, Nordic Scheme etc.), Common Centres of Police and Customs Cooperation (Mondorf Agreement)
Australia: MOU's; NT, WA, SA cooperation

Police Cooperation before 'Schengen' (1985)

- Bi- and multilateral treaties and agreements
- Cooperation between neighbouring states
- Cooperation between groups of states with a 'common history' like Nordic Cooperation and Benelux

History of EU police cooperation

- Liaison officers
- Interpol
- Bilateral and multilateral treaties
- Practitioner led initiatives
- TREVI
- Schengen
- Europol
- Joint commissariats
- Police Chiefs Taskforce
- European Police College

Problems Resulting from multiple Agreements on the 'lower level' similar in both Australia and the EU

1. Patchwork of Police cooperation
2. Regional agreements even on parts of a common border
3. Overlaps in similar agreements sometimes leading to confusion
4. Compliance with all the agreements time-consuming (e.g. supplying all the data-bases with information)

Possible solution?

Swedish Initiative:

- Conditions for info exchange between states need to be the same as within state
- Dedicated agency in each state responsible for requests
- Agency has to distribute all existing data
- Harmonisation of admissible evidence
- Harmonisation of data protection regulations
- Harmonised reasons to refuse answering request (national security)
- Harmonised forms
- Harmonised language
- Harmonised time limits to answer request

The Treaty of Prüm - a solution?

The Treaty of Prüm:

- Establishes national DNA, fingerprinting, vehicle registration number and personal data analysis files
- Automatic access and matching of files
- Establishes national 'contact agencies'
- Gives police officers enforcement rights on foreign territory
- Regulates data protection and compensation for breach