

# Table of content

| Abst  | tract                                                                      | 2  |
|-------|----------------------------------------------------------------------------|----|
| 1.    | Introduction                                                               | 1  |
| 2.    | Theoretical framework                                                      | 3  |
| 2.1.  | Why is cross-border policing needed?                                       | 3  |
| 2.2.  | Forms of cross-border policing                                             | 4  |
| 3.    | Methodology                                                                | 6  |
| 3.1.  | Case selection and sampling                                                | 8  |
| 4.    | Background                                                                 | 9  |
| 4.1   | History on cross-border policing in the EU context                         | 9  |
| 4.2.  | The situation on the German-Czech Republican border before the Prüm Treaty | 10 |
| 4.3.  | Situation on the German-Dutch border before the Prüm Treaty                | 12 |
| 4.4.  | Situation on the German-Danish border before the Prüm Treaty               | 14 |
| 4.5.  | EU Treaties on policing and focus on the Prüm Treaty                       | 15 |
| 5.    | Analysis                                                                   | 17 |
| 5.1.  | Cross-border policing at the German-Czech border                           | 17 |
| 5.2.  | Cross-border policing at the German-Dutch border                           | 20 |
| 5.3.  | Cross-border policing at the German-Danish border                          | 22 |
| 6.    | Conclusion                                                                 | 25 |
| 6.1.  | Sub-question I                                                             | 25 |
| 6.2.  | Sub-question II                                                            | 25 |
| 6.3.  | Sub-question III                                                           | 25 |
| 6.4.  | Answer to the main research-question                                       | 26 |
| 6.5.  | Limitations and final words                                                | 26 |
| 7. Li | st of references                                                           | 28 |
| _     |                                                                            | 24 |

#### **Abstract**

In 2005 the Treaty of Prüm was signed by the initiators and is to regulate the cross-border policing in borderless Europe. Although already in 2000, Germany-Czech Republic and 2002 Germany-Denmark signed a bilateral agreement, in 2005, shortly before the Prüm treaty, Germany-Netherlands signed a bilateral agreement, both to regulate the cross-border policing. To highlight the changes through the Treaty of Prüm on German-Czech, German-Dutch, and German-Danish cross-border policing agreements, this thesis's research question is: *To what extent did the Treaty of Prüm change the cross-border policing of Germany with Denmark, the Netherlands and the Czech Republic?* The research design is a summary content analysation according to Flick (2016), with that the bilateral agreements and the Treaty of Prüm are analysed. The findings are compared with a type formation and subsequent analysis. The findings can be summarised as that the Prüm Treaty did not significantly impact frontline policing and the occurring criminal phenomena around the border regions. However, Prüm simplified and made policing more efficient with shared automatic databases. Also, Prüm promoted the cross-border policing in general. This topic's relevance is given through the apparent duplicate effort on the agreements and a lack of literature on these cases.

#### 1. Introduction

The policing area is always the debate between freedom vs security, especially in the European Union (Hermann 2017). The police agencies are supposed to protect the citizens and state against crimes in their country. Therefore, the police underlay the authority of the state. In Germany, most police agencies are even under the control of the state level (Kugelmann 2011).

Crimes do not stop at borders, and criminals are developing tactics to commit crimes also on the other side of the border, it is possible to describe this as "transnationalism of crimes" (Fijnaut 2009, p.3; cf. background). Moreover, since the opening of the borders due to the Schengen reform in 1985, it is even easier for criminals to travel across the border and to commit crimes on the other side of the borders (Spapens 2010). This presents the authorities with challenges that could be solved in cooperation with their EU partners as they all are affected by that situation in order to protect all citizens against crimes and prevent serious criminal activities.

To prevent and investigate crimes, terrorism, and other illegal activities, it is possible to give the police agencies more rights. However, with more rights for policing, the citizens' freedom is interfered with, for example, with the exchange of citizens' data between police agencies (Hermann 2017). In 1975, the first intergovernmental attempts were made to counter-battle international terrorism and organised crime (Marsh & Rees 2012). The EU, as an institution, started promoting international police cooperation with the Treaty of Maastricht in 1992 (Marsh & Rees 2012). However, in 2000, Germany and the Czech Republic (at this point, not an EU member) agreed on a cross-border policing agreement (BGBL 2002a). In addition, in 2002, Germany and Denmark agreed on a Treaty to regulate cross-border policing, too (BGBL 2002b). A similar agreement was set in 2005 between Germany and the Netherlands (Bundestag 2005).

In addition, in late 2005, the Treaty of Prüm was signed by seven members, including Germany and the Netherlands (Niemeier & Hösch 2016; BMJV 2021). The Prüm Treaty started as a multilateral agreement on policing and regulating data exchange and other cross-border policing matters. The thesis aims to analyse the changes followed by the Treaty of Prüm on the existing bi- and multilateral agreements in the area of cross-border policing to highlight the influence of EU-level approaches on national agreements and the possible differences that occurred with the Prüm Treaty. The focus of this thesis lies on the cross-border policing at the borders of Germany-Czech Republic, Germany-Netherlands, and Germany-Denmark.

The research question for the thesis is a descriptive and comparative question. An answer to the research question will be provided through content analysis (see Methods' chapter 3).

In addition, literature will be used to build up a theoretical framework and discuss cross-border policing in general terms and in the context of the EU (e.g. Fijnaut 2011; Birdi et al. 2020; Kugelmann 2011).

The Prüm Treaty started as a multilateral agreement and was then converted in the EU legal framework, this was highly discusses based on the process chosen by the members of the EU (Niemier & Zerbst 2007)

This will be stressed and discussed as well with the work of Niemeier & Zerbst (2007). The relevance for this thesis arises from there that the topic of cross-border policing is not highly researched and has a scientific gap. According to Birdi et al. (2020), the scientific community started in the mid/late 90s to focus on policing, especially political science. However, within the last years, more and more publications on this matter were published, also on cross-border policing (e.g., Birdi et al. 2020; Schober 2017; Fijnaut 2011). In addition, the fact that the Prüm Treaty, which is still the base for police cooperation in the EU, was settled in 2005, initiated among others by Germany and the Netherlands. The Prüm Treaty was just five years after the German-Czech Republican agreement, three years after the German-Denmark agreement and just a few months after the German-Dutch agreement was settled. This described chronological order and duplicate effort made by the partners on the bi- and multilateral agreements are noticeable as every Treaty and international agreement is connected to administrative work as there is the need for several negotiation rounds, aims of agreements, covered topics, drafts etc... This raises the question about the need for the Prüm Treaty as an addition to the already existing agreements. Coming from this thought, the research question of this thesis is: "To what extent did the Treaty of Prüm change the cross-border policing of Germany with the Czech Republic, Denmark and the Netherlands?".

In order to answer the research question, the sub-questions will be used. The first sub-questions reads: "Why is cross-border policing needed?", the first sub-question addresses the definition and the need for cross-border policing. This sub-question is necessary to introduce the topic, define and explore different forms of cross-border policing.

The second sub-question addresses the status of the cross-border cooperation in policing before the Treaty of Prüm and studies the development of the bilateral and multilateral agreements about the cross-border policing at the German-Czech Republican, German-Denmark, and German-Dutch borders. Also, to compare these initial bilateral and multilateral agreements to the Treaty of Prüm, it is necessary to highlight the main characteristics of bilateral cross-border policing. Therefore, the second sub-question is: "What was the legal base for the cross-bordering policing at the German-Czech, German-Dutch and the German-Danish border before the Prüm Treaty?"

To answer the main research question, it is necessary to study the Prüm Treaty to compare it to the other previously existing agreements. With this the background and the limitations of the Prüm Treaty will be discussed, too. Therefore, the third sub-question is: "What are the main characteristics of the Prüm Treaty?"

#### 2. Theoretical framework

Cross-border policing can be defined as security cooperation between authorities in the policing sector with other countries based on *ad-hoc* situations, multilateral, or bilateral agreements (cf. Commission 2021). Hence, it is every activity that national police authorities are engaged in cooperating with other national police agencies across the national border. Cross-border policing is a highly complex topic because of the complexity of crimes themself interstate cooperation in general (see Fijnaut 2011; Birdi et al. 2020). Therefore, there is the need for a further definition of what cross-border policing is and how cross-border policing can be designed.

Complexity in interstate cooperation can be explained with the political and administrative dimensions. For international cooperation with other countries and the extent of those cooperation's is a political will at the national level needed (Fijnaut 2011). This political dimension in cooperation can lead to obstacles if, for instance, the political will for cooperation is missing. In addition to the political dimension, the different administrative systems of the cooperating countries can be seen as an obstacle. The systems can differ in their authority and competencies about policing matters from country to country and even from state to state (e.g., in Germanies system, the states and the federal government have competencies). Hence, the responsibility for cross-border policing is relying on different resorts, which leads to many stakeholders for those cooperation forms and for the political and administrative coordination to complexity (Fijnaut 2011). In addition, Birdi et al. (2020) identifies obstacles for crossborder policing in the form of language barriers, inadequate technology, and organisational differences. In addition to the argued complexity of cross-border policing cooperation's, different forms of crossborder policing can be construed differently, this will be discussed in the following chapter (Fijnaut 2011; Birdi 2020). This chapter aims at building a theoretical framework for this thesis. In the first step, arguments, why cross-border policing is needed will be highlighted. In the second step, different forms of cross-border policing will be discussed.

## 2.1. Why is cross-border policing needed?

In the time of globalisation, it is possible to speak on the term "transnationalism of crime" (Fijnaut 2009, p.3). This means that criminal phenomena's do not stop at borders and can be coordinated across borders by organised criminals or terrorists. Especially since the 1990s, with occurring of modern communication tools, is the coordination of crimes simplified (Guerette 2019).

It can also be argued that a shared market across borders leads to more significant criminal issues because more opportunities would occur for criminal activities (Fijnaut 2011; Marsh & Rees 2012). Schober (2017) added that an open legal market is not only attracting legal market participants but also criminals who want to use the advantages of the open market for illegal activities. This means that an open market with shared industry and well-developed trading routines and routes makes it easier for criminals to commit crimes. An example of this situation could be brought the drug smuggling: with more trucks crossing the borders and with fewer customs and police checks, it is easier to hide and

smuggle illegal goods, such as drugs. Also, crimes like burglary and bringing out the stolen goods from the country of crime is easier with an open market.

To tackle crimes committed in context on the borders, such as drug smuggling, human trafficking, organised burglary in cross-border regions and illegal migration, it is necessary that the police agency does not stop at the national borders but have the chance and legal opportunity to investigate crimes also beyond their own state borders to identify criminals from other countries.

A further argument for cross-border policing is the need for an exchange of new technology, expertise, professionalism, as well as shared joint education and training. Each police agency makes their own experiences and developing solutions to present issues or can, based on their experience, develop specific strategies for situations. With cross-border policing, they can share their knowledge and though tackle criminal phenomena with up-to-date standards (Kleiven 2011)

### 2.2. Forms of cross-border policing

Fijnaut (2011) describes cross-border policing in a three-level spectrum. At the start, there is information exchange on certain cases. This means, e.g., the exchange of knowledge on requests such as telephone numbers, license plates, or particulars. Birdi et al. (2020) defines knowledge exchange further by dividing it into groups: exchange of data on vehicles, on groups of interest, on border security issues, on criminal cases or records and on information on legal systems or training information and best practices. The middle spectrum means that police officers leave their territory to carry out police operations in other countries. Firstly, it can mean that the officer is on his own for, e.g., surveillance tasks or undercover investigations. Secondly, it can mean that the officers carry investigative or preventive police activities out in partnership with officers of the partner country (namely joint investigations, joint teams, or mutual operations). The third spectrum is in the context of international police missions with officers from many different countries under the command of international organisations (such as UN police missions for training or FRONTEX (European border management agency) missions).

To carry out such cooperation on the different spectrum's internal organisation structure of the involved agencies is important (Fijnaut 2011). To stop criminal phenomena around borders, it is necessary to cooperate at every administrative level as it needs a good organisational structure on all levels of coordination to fight against cross-border crimes (Fijnaut 2011). The coordination of cross-border policing cooperation's is starting at the national level of each partner country in the context of political decisions and will also in the total overview of criminal developments threading public security. In addition, the federal and local levels need to be strong and well organised for the coordination of the criminal phenomena and cooperations as they have local capacities to carry out policing.

Fijnaut (2011) has brought out three spectrums of cooperation in the field of policing. The first spectrum of cooperation is an information exchange like for example is the Schengen convention (or Schengen transit agreement (STA)), bi-and multilateral agreements (such as cross-border policing agreements) but

also EUROPOL (European Law Enforcement Organization), which is supposed to gather and spread information to prevent crime or support investigations (Guerette 2019).

The second spectrum of cross-border policing, according to Fijnaut (2011), is direct cooperation, such as for example joint investigations teams, pursuit, or observations behind national borders. These activities of cooperation can also be promoted through bi- and multilateral agreements such as example the Schengen convention, policing agreements of two countries or the Prüm Treaty.

The third spectrum of cross-border policing is international police missions, such as FRONTEX or international training missions. For those international missions, a supranational mandate is needed. The latter is given through a parliament or, in the case of FRONTEX, based on supranational law (Deutscher Bundestag 2018).

As can be seen from the argumentation above, the boundaries between the spectrums of cross-border cooperation, especially the first spectrum (information exchange) and second spectrum (cooperation), are blurred as there can be used similar legal bases of these types of cooperation. Only the third spectrum (international cooperation) uses different legal mandates than the first two spectrums. However, it needs to be brought out that these above three spectrums of cross-border policing are established on a formal legal basis.

Based on Birdi et al. (2020), in addition to these above three spectrums, there is also an informal spectrum as the cross-border policing is in many cases informal between colleges and that there is the need for trust as base cooperation and not a formal legal base as for the previously described spectrums.

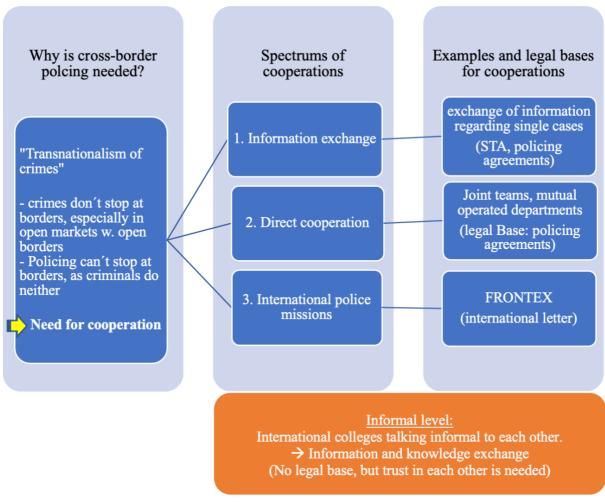


Figure 1: Different forms of policing cooperation's according to Fijnaut (2011) and Birdi et. al. (2020), own illustration.

Figure 1 illustrates and summarises the findings of the theoretical framework. The middle blue fields are the spectrums of cross-border policing, according to Fijnaut (2011). In addition, the informal information exchange of police officers as an additional spectrum, according to Birdi et al. (2020), is added in an orange field.

## 3. Methodology

In this chapter, the research design will be further described. To answer the research question, the three sub-questions will be answered step-by-step, and then the main research question will be addressed based on the previous findings. In the following paragraphs, each sub-questions research design is described.

Addressing sub-question I: Why is cross-border policing necessary?

In order to answer this sub-question, a literature review is conducted. Literature to address this sub-question was found through Google Scholar, DISCO (bibliography system of the WWU Münster), LISA (bibliography system of the UTwente), or snowball research from found literature. Also, visiting the library in Münster of the Institute for political science was used, but this was partly limited through the

COVID-19 pandemic. Keywords used for the online research were, for instance: cross-border policing, Prüm Treaty, international policing, border police. Based on the literature research, a theoretical framework for this study was established. Based on the literature, the concept of cross-border policing was defined, and different forms of cross-border policing were discussed. Also, the need for cross-border cooperation in policing is highlighted.

Addressing sub-question II: What was the legal base for the cross-border policing at the German-Czech, German-Dutch, and the German-Dansih border before the Prüm Treaty?

To answer the second sub-question, the German-Czech, German-Dutch and German-Danish agreements on cross-border policing are separately analysed through a qualitative content analysis (Flick 2016). For that, the content of the agreements will be systemised according to keywords of the single articles, and the findings will be summarised article by article in a table for better comparison. This is done to highlight the legal base for cross-border policing and the differences between the agreements. The bilateral agreements can be found published by the German Government (BGBL 2002a; BGBL 2002b; Bundestag 2005). The findings of the analysations will be compared to answer the research question.

Addressing the Sub question III: What are the main characteristics of the Prüm Treaty?

The Prüm Treaty is analysed in the same way as the bilateral agreements (see under the sub-question II) to address the third sub-question. All Articles of the Prüm Treaty are reduced on keywords to highlight the aim of the article. This is necessary to make all agreements comparable. Besides, a literature review about the Treaty will be used to gain more general information and the actual impact on member states by the Treaty (see the method described under sub-question I).

For addressing the research question, a table will be used to give a better overview of the covered topics. The table covers, on the one hand, the content of the agreements and the measures of the Prüm Treaty. If one topic named in one agreement is also covered by another agreement/contract, this will be further described. With this approach, a better comparative overview is presented. The Prüm Treaty can be found online published by the BMJV (2021).

The conclusion will be drawn based on the analysis of the agreements and the Prüm Treaty. After the summary content analyses, according to Flick (2016), a type formation with subsequent analysation according to Flick follows. The first step is to name the comparative dimension (here, the content of the agreements). The second step is to group the cases and sort them after their empirical regularities (Flick, 2016). Here the articles of the agreements will be sorted after the aim in one category (e.g. Data exchange – fingerprints, BOLO etc.) for each agreement in one row, the main focus is on the Articles affecting the actual policing, not on the administrative frame. The last step is characterisation to highlight properties similarities and differences (Flick, 2016). With that, it is possible to research in

which fields of policing the agreements/Treaty regulated what to which extend. From this point on, it is possible to see which fields are added in the Prüm Treaty or are just regulated with the bilateral agreements. Hereby, it is possible to conclude to answer the research question. Besides, it is possible to use literature to interpret further the differences between the agreement and the actual police work. With this analysation, it can be discussed how the agreements and the Treaty regulated cross-border policing. Moreover, which agreements had a wider span, and which covered what topic.

#### 3.1. Case selection and sampling

The cases chosen for this study are the agreements on cross-border policing between Germany-Czech Republic, Germany-Netherlands and Germany-Denmark. The case selection for the project is based on personal interest and the availability of literature. The security cooperation across the German borders is chosen as German, the native language of the researcher and though it is easier to analyse the documents.

The choice of the German-Czech border can be explained as following; the Czech Republic was chosen as this country was not an EU member at the point of settling the cross-border policing agreement. Hence, the German-Czech border was not affected by the Schengen agreement, and border checks were in force till 2007 (EU 2020). Through this agreement, it is possible to highlight the need for cross-border policing with border neighbours even if there are border checks. Secondly, the German-Czech border has certain criminal phenomena's occurring that are not noticeable to this extent in other border regions (unlawful entering, human trafficking, child prostitution). Finally, Germany and the Czech Republic have a tense relation based on the history around the second world war and also the modern history, according to Werner Link (2003).

The choice for the German-Dutch border can be explained as follows. Firstly, the Netherlands is an extended hand cooperation partner of Germany also in the area of policing (c.f. the German-Dutch agreement, Bundestag 2005). Secondly, the Netherlands was also part of the community, which initiated the Treaty of Prüm together with Germany (Niemeier & Hösch 2016). Thirdly, for the German-Dutch border, enough literature is available with a focus on the cooperation (e.g. Dolfen 2008; Spapens 2010). And finally, the German-Dutch cross-border cooperation is among the oldest cooperation's in the world dated back to the establishment of the Euregio area in 1958 (Euregio 2021)

Finally, the choice of the German-Danish border was chosen based on the following reasoning. Firstly, the researcher did an internship at the state police of Schleswig-Holstein, and hence it is a personal motivation to research the relation between the Germany and Denmark. And secondly, the cooperation with Denmark has a long history of policing since the beginning of early 2005 and though provides a longer perspective.

The Treaty of Prüm was selected as it is the current legal framework in the area of cross-border policing. Furthermore, it is interesting as the debate around this Treaty is quite controversial in terms of the implementation and actual effect on cross-border policing (Niemier & Zerbst 2007; Schober 2017). In

addition, the Treaty is the EU basis for cross-border policing, and the EU law is standing above the national law.

## 4. Background

The first part of this chapter focuses on the history of cross-border policing in the European Union, the next sections focusing on the situation at the German-Czech, German-Dutch and German-Danish border before the Prüm Treaty including the content of the bilateral agreements. The last section of this chapter is about EU Treaties on cross-border policing and the Prüm Treaty itself.

After the Schengen program in 1985, the borders in the EU were opened, and border checks stopped. Afterwards, it was easier for criminals to commit crimes not only in their home country but crossing the border and commit crimes also across the border without border checks (Marsh & Rees 2012).

Spapens (2010) defines as an example four types of serious crimes at the German-Dutch: Drug trafficking and dealing, indigenous groups committing predatory crimes, organised criminals committing crimes on each side of the border (travelling criminals) and criminal groups committing crimes not only in the border region but also in the interior of both countries (highly mobile groups committing, e.g. burglary theft)

The need for cross-border policing can be argued as in borderless Europe, it is easier for criminals to commit crimes related to other countries, this phenomenon can be considered "internationalisation of illegal activity" (Spapens 2010). Hence, not only the EU but also the national states and the local authorities are looking for a solution in the fight against crime (Spapens 2010).

In addition, it is challenging for police agencies to investigate crimes in border regions as it is possible that they must investigate or need to continue their investigations in neighbouring countries on external authority areas (Schober 2017).

Therefore, it is necessary, not only for the investigation but also for actively committed crimes (e.g., in the case of a hot pursuit), that the police agencies of the EU cooperate.

## 4.1 History on cross-border policing in the EU context

The EU can promote internal security matters, informal and formal. The first intergovernmental attempts to work together in internal security was made in 1975 with the TREVI (Terrorisme, Radicalisme, Extrémisme et Violence Internationale) forum. TREVI provided the Interior ministers of the partner countries with a framework on how to share security-relevant knowledge about terrorism (Marsh & Rees 2012).

Another important step in the history of cross-border policing was the Schengen agreement in 1985 which started borderless Europe (for detailed information, see chapter 4.5). The following step was the Treaty of Maastricht 1992, which implemented a three-pillar structure of the European Unions competencies. The first pillar regulated the "the community" and described where the EU had

supranational competencies. The second pillar was on "common foreign and security policy" and regulated matters of foreign politics in an intergovernmental modus. Next to other things, the third pillar focuses on European police cooperation and the fight against terrorism ("Justice and home affairs") (Council 2018). Policies made in the second and third pillar would not get immediately implemented by the EU but need verification at the national levels with the council (Dolfen 2008). In the time under the Maastricht Treaty's EU's structure, the EU was able to promote security cooperation's, and so cross-border policing, of countries through the third pillar in an intergovernmental modus.

Further steps made in the EU cross-border policing came through the Schengen information system (1992, exchange of security knowledge), the Treaty of Amsterdam (1999, area of freedom, security, and justice), the founding of Europol (1999), and the Treaty of Nizza (2000, with the explicit right on security and freedom for the citizens) (Dolfen 2008). The EU's pillar-based structure was suspended through the Lisbon Treaty in 2007 (since 2009 in effect). From there on, police cooperation is stated in Art. 87 f. of the Treaty of Functioning of the EU. Based on this legal frame, the EU promotes the EU broad cooperation of policing within a legislative procedure (Kugelmann 2011).

# 4.2. The situation on the German-Czech Republican border before the Prüm Treaty

On this example of the Czech Republic will be argued why also with border checks in force, there is cross-border crime and why it is necessary to fight against the matter.

One of the most significant issues around the German-Czech Republican border was especially the unlawful entry to Germany till the early 2000s. The Bundesgrenzschutz (now replaced with the Bundespolizei, state police) registered in the year 2000 the biggest unlawful entry issue on German borders with over 11.000 cases in 2001 then over 7.000. In addition, in the same context are the problematics of human trafficking with over 3.400 cases in 2001. Also, over 700 traffickers (most of them are Czech Republic citizens) were taken into custody for their crimes (BMI 2002). According to the Bundesgrenzschutz, this border was the hotspot for illegal migration crimes in the year 2000/2001 as also in the previous years (BMI 2002).

Next to the committed crimes in the area of migration, there is also the field of child prostitution that occurs in the late 1990s till the early 2000s in the border region. According to a UNICEF project, there are over 500 known cases of child prostitutes (offered by others and self-offering) (Stern 2003). Also, the German Bundestag paid some attention to the topic of the questioning of the PDS (former left Party) to the Bundesregierung. The Bundesregierung answered that they do not think it seems to be a big issue for Germany. However, they state that Czech officials mentioned that this phenomenon around the border is a big issue and is getting more (Deutscher Bundestag 2001).

The German-Czech policing agreement provided the partners with the following measures. The analysis table of the agreements is provided in the appendix (Chapter 8). Next to that, at the end of this section,

a table is provided which summarises the identified crimes occurring in the border region and the following findings of the measures taken in the German-Czech agreement.

The information exchange on forms of crimes, situation reports, suspects, and significant events provided the general information exchange on police relevant data (Art. 3). With that article, the agencies can share the relevant information on a broad field and battle crimes better with that gained information. Also, they can ask their partners for certain information in single cases, for instance, vehicle IDs and owner plus holder of telecommunication (phone numbers, etc.) (Art. 4). For illegal migration and human trafficking, the agencies can, e.g., share information about suspects or repeat offenders. In addition, Art. 3 regulates the shared communication. On both sides are contact persons named who can be asked or consulted on certain matters. Moreover, in Art. 3 the shared education and training operations are regulated. Both parties can have shared training to teach the partner new skills based on the experience, language of the partner's country, or expert training. For better communication and operations, the possibility for shared operated police departments is regulated in Art. 5. Here, officers from both countries can work together in one department to coordinate operations and exchange information.

In addition, mutually coordinated operations and joint teams can be fulfilled with the new agreement. Officers on both sites can work together and do shared operations on both sites of the border. For instance, they can so do focus controls on illegal migration (Art. 6). Also, they can go on patrol as a joint team. With that, officers can do controls on both sites of the border and tackle crimes together.

One significant improvement in the fight against illegal migration is the reporting service on illegal migration in Art. 9. The partners commit each other to share relevant information on illegal migration and human trafficking. That information is, for instance, structure, destination, routes, and used transportation by illegal migrants. Furthermore, also the structure of the trafficker and information on those groups are shared.

Based on the made arguments which article of the agreement improved the relation of the partners and the task of battling illegal migration, it is possible to state that the agreement made committed to success in this battle, at least as the legal base was made for the shared battle.

It is noticeable that even with border checks in force, crimes related to cross-border regions do not stop at border, even with border checks in force (cf. Guerette 2019)..

| Problem            | CB Policing agreement provision          |  |  |
|--------------------|------------------------------------------|--|--|
| Illegal migration  | - Information exchange                   |  |  |
|                    | - Shared communication                   |  |  |
|                    | - Mutual operations                      |  |  |
|                    | - Shared education training              |  |  |
|                    | - Data exchange on request               |  |  |
|                    | - Joint teams                            |  |  |
|                    | - Reporting service on illegal migration |  |  |
|                    | - Shared meetings                        |  |  |
|                    | - Shared operated police departments     |  |  |
|                    |                                          |  |  |
| Child prostitution | - Information exchange                   |  |  |
|                    | - Shared communication                   |  |  |
|                    | - Data exchange on request               |  |  |
|                    | - Joint teams                            |  |  |
|                    | - Shared meetings                        |  |  |
|                    | - Mutual operations                      |  |  |
|                    | - Shared operated police departments     |  |  |

Table 1: German-Czech Problems, CB agreement provision

# 4.3. Situation on the German-Dutch border before the Prüm Treaty

The most common criminal phenomenon around the German-Dutch border is drug smuggling. In 2000/2001, 75% of the found drugs by the Bundesgrenzschutz was confiscated at this particular border. In 1999 around 151 kg and additional around 95.000 consumption units' hard drugs were confiscated (e.g. Heroin, Cocaine and as consumption units Ecstasy or LSD.), in 2001 75kg hard drugs and 106.000 consumption units of hard drugs were confiscated (Bundesgrenzschutz 2002). This underlines that the German-Dutch border is a hotspot for drug smuggling. The Bundesgrenzschutz reasons that with the central geographical position of Germany as transit and destination country for drug smuggling and the Netherlands as origin country. This is also argued by Spapens (2010) that the Netherlands developed over the past years as one of the major drug suppliers in the EU. This is reasoned through the drug politics (decriminalisation of soft drugs — e.g., marijuana), the illegal production of drugs (e.g. amphetamine, marijuana or ecstasy pills). Furthermore, as an importing country for hard drugs from South Africa, Turkey or Morocco through the harbours (Spapens 2010). The problematics regarding the drug trafficking at the Dutch border and under the pressure of the neighbour countries (Germany, Belgium), the Netherlands were urged to react and act against this matter (Spapens 2010). This seems to be a reason and promoter for cross-border policing cooperation.

In addition, there is the fight against terrorism. Germany and the Netherlands are longhand partners in the counter-terrorism fight and the protection of the EU values. This was especially promoted in the aftermath of the 11th of September. A part of counter-terrorism is also the exchange of data and knowledge on suspects. In addition, terrorism is often financed with other illegal activities. Therefore, Germany and the Netherlands promoted their policing cooperation (Dolfen 2008).

The main measures of the German-Dutch policing agreement are on information exchange and shared/mutual frontline cooperation. In the case of drug smuggling and criminals committing crimes on both sides of the border, there are a few measures of the agreement to mention, which have possibly a direct influence on battling those crimes.

Here to name are the information exchange of general, non-personal data (typical behaviour of criminals, crime forms, etc.) (Art. 4). In some instances, without request and even personal data if relevant for investigation (Art. 15) or for prevention (Art. 17). With this, the agencies are allowed to share data, mostly non-personal; the barrier for personal data is slightly higher. The bilateral policing agreement also regulates shared training and education missions (Art. 4). Those missions have a particular focus on cross-border related situations and the laws of the partner country. This seems to be crucial as there are many forms of cooperation forms regulated in the agreement. Here are shared operated police departments, but in this agreement just for information exchange and without the right to fulfil operational missions (Art. 17). Also, joint teams (as patrol; Art. 4;19) and particular forms like analyses task force (Art. 19) can be formed. An additional form of cooperation in frontline operations is the subordination of partner officers, even with executive rights (Art. 4;6). With that, the partners can coordinate more extensive operations, especially with the support of the partner country. An example of such operations could be large-scale focus controls in the border regions.

In addition to the regulations on frontline cooperation forms, there are measures on investigative cooperation forms. Here to mention are cross-border observations according to the STA but with some additions such as the execution of a warrant (Art. 11). Also, cross-border observation is possible, according to Art. 16 if the hosting country cannot fulfil this or the following officers are under time pressure. Furthermore, the agencies can do undercover investigations in the partner country (Art. 14) and undercover officers in the crime prevention if the operation started in the home country and needs to be continued in the partner country (Art. 18). In Art. 13, the partners agree that the import of illegal goods (such as drugs) is on request allowed if it is necessary for further investigations. For example, drugs are getting smuggled from the Netherlands to Germany; the Dutch agencies are aware of that but ask Germany to let the drugs being imported to investigate further and find out more about the structure. On the topic of DNA transfer and comparison, the partners commit to checking for DNA matches on request, and if the DNA is not available, the partner tries to achieve this DNA (Art. 10).

| Problem                             | CB Policing agreement provision                         |
|-------------------------------------|---------------------------------------------------------|
| Drug smuggling (organised crime)    | - Information exchange                                  |
|                                     | - Shared education and training missions                |
|                                     | - shared operated police departments, but not operative |
|                                     | - Joint teams                                           |
|                                     | - Shared meetings                                       |
|                                     | - Observation                                           |
|                                     | - Preservation of evidence                              |
|                                     | - Controlled import                                     |
|                                     | - Undercover                                            |
| Criminals committing crimes on both | - As above                                              |
| sides of the border (e.g. burglary  | - DNA on request (Art. 10)                              |
| theft)                              |                                                         |
| Counter-terrorism                   | - Measure named before (but just partly)                |
|                                     | - Support in catastrophes                               |
|                                     | - Shared information                                    |

Table 2: German-Dutch Problems, CB agreement provision

# 4.4. Situation on the German-Danish border before the Prüm Treaty

For the special situation on the German-Danish border is just little literature available. There to mention is that Denmark is a member of the Schengen since 2001 (European Union 2020). The German-Denmark agreement on cross-border policing is from 2002, not even a year after joining Schengen. A possible reasoning for the cooperation are wars of bikers, drug trafficking, illegal migration, human trafficking, and to promote long hand partnership more.

The wars of bikers are an issue in Denmark, and this problem was getting over to Germany as well. In the 1990s, a heavy and violent conflict between different biker groups takes place in Denmark. Partly the conflict came to Germany as well (cf. Cornils & Greve 2007). It is noticeable that some biker groups are also very active in Schleswig-Holstein, the neighbour state of Denmark (SHZ 2016). Hence, organised crime can be named as a criminal phenomenon occurring around the border and also crossing the border.

Human trafficking is, according to Cornils & Greve, also a problem for Denmark, most of the trafficked women for prostitution are entering the country via the land way over Germany (Cornils & Greve 2007).

Also, drug smuggling is a criminal phenomenon occurring around the German-Danish border. In 1997 more and more drugs are smuggled through Europe and also to Denmark. New markets epically for hard drugs, are opening and arriving in Europe. One of the transit countries for drugs is Germany reasoned

through the geographical location and that most of the drugs arrive in Europe in harbours in the Netherlands or Germany. Drugs are getting then smuggled, often by land in vehicles, to the destination country. Hence, the German-Danish border is also affected by drug smuggling (cf. Geopolitical Drug Watch 1998; Spapens 2010).

For the measures taken in the German-Danish policing agreement is the following to summarise (cf. Table 3). At first, the exchange of information regarding the border region, in single cases also personal data is allowed to share (Art. 4). Also, mutually coordinated operations with the support of partner officers for consulting are regulated (Art. 4). However, especially this point is formulated vaguely as it stays unclear for what kind of consulting the officers are allowed to be present and if officers can participate in the operations or are more for formal consulting. On this topic is also the use of liaison officers according to the STA mentioned (Art, 4). Furthermore, the request for assistance on police relevant information (Art. 6) according to the STA is regulated.

The extension here seems to be that the contact agencies are named. In addition, is also the cross-border observation (Art. 8), according to the STA, further regulated whit to be contacted agencies in these cases.

| Problem                     | CB Policing agreement provision                  |  |  |
|-----------------------------|--------------------------------------------------|--|--|
| Organised crimes (bikers)   | - Information exchange, also on personal data on |  |  |
|                             | single cases (Art. 4)                            |  |  |
|                             | - Mutually coordinated operations with partners  |  |  |
|                             | officers for consulting (Art 4, vague)           |  |  |
|                             | - Request for assistance according to STA        |  |  |
|                             | - Liaison officers (10)                          |  |  |
|                             | - Cross-border observations (Art. 8 → STA)       |  |  |
|                             | - Mutual operation teams                         |  |  |
| Drug trafficking            | - As above                                       |  |  |
| Illegal migration and human | - Mutual operations, focus controls              |  |  |
| trafficking                 | - Information exchange                           |  |  |

Table 3: German-Danish Problems, CB agreement provision

# 4.5. EU Treaties on policing and focus on the Prüm Treaty

Subsequent Prüm Treaty there was in 1990, the Schengen transit agreement (STA) signed. This agreement followed five years after the Schengen reform and focused on police cooperation. According to several authors, the main goal of this was to ensure domestic security even with the cancellation of systematic identity checks (Schober 2017; cf. chapter 2; Dieckmann 2019). To accomplish that goal, the

EU set to focus on cooperation and data exchange (automatic search- and information systems). In his findings, Schober criticises that the STA is just a cooperation legal base and does not actually promote the frontline police work; this is still under the national member states' restriction (Schober 2017). In 2005 was the Prüm Treaty signed (Niemeier & Hösch 2016). It was initiated by the German Minister of Interior Otto Schily and Luxembourg's Minister of Justice Luc Frieden at the Interior minister.

of Interior Otto Schily and Luxembourg's Minister of Justice Luc Frieden at the Interior minister conference of the EU members in 2003 (Hummer 2007). All EU members were initiated to participate in this project.

Germany, Belgium, Luxembourg, the Netherlands, Austria, France, and Spain signed Prüm Treaty on the 27th of May 2005 as a multilateral agreement. The main motivation for the Prüm Treaty was to promote police cooperation between EU members but not with the EU as a supranational institution. It was thought of the initiators to gain a pioneering role in the area of security cooperation and to promote this in the EU. Also, it was in the interest of the partners to tackle all forms of cross-border crimes (Hummer 2007). The goal of the Prüm partners was from the beginning to implement the Prüm regulations in the EU legal framework. This is noticeable as it is stated at the beginning of the Treaty, and according to several authors, the single measures were already geared towards EU legal framework compatibility (Niemeier & Zerbst 2007; Schober 2017).

The initiator member states, especially Germany during their EU council president time in 2007, focused on implementing the Treaty into the EU legal framework (Hummer 2007). In 2007 the council of the EU had presented a draft of the Prüm Treaty to vote on for which 17 members of the EU have previously signalised that they would vote in favour of and was consequently implemented in the EU legal framework. The draft largely contained the most important measures of the Prüm Treaty. However, some of the measures of the multilateral Prüm Treaty were excluded in the EU draft (namely, use of sky marshals, exchange of document advisors and mutual repatriations). The reason for excluding these single articles that those were in the area of the first pillar, and therefore the initiative right of the CU Commission would be needed. The partners, however, agreed on leaving those Articles out and implemented the Prüm Treaty as an intergovernmental approach through the council (cf. Niemeier & Zerbst 2007; Schober 2017). In addition, the crossed-out measures were already in the EU legal framework included. The Prüm Treaty aims at highlighting those measures and on the simplification plus operationalisation of those (Niemeier & Zerbst 2007). The main measures of the Prüm Treaty (see chapter 5) are not impacted. The converted Prüm Treaty in the EU legal framework is consequently within the same scope and range as the multilateral Treaty (Niemeier & Zerbst 2007). With this argumentation, it is justifiable why the Czech Republic is included in this study. As stated, was the Czech Republic not an initiator of Prüm. However, with the converting of Prüm in the EU law, it was from this point on in 2007 also in force for the Czech Republic. From this point on, the German-Czech policing agreement was also affected by the Prüm Treaty as the other bilateral agreements before.

As previously mentioned, and highlighted through the history of the Prüm Treaty, the way the members of the EU took to implement the Prüm Treaty with a Council decision is partly described as a democratic deficit (Niemeier & Zerbst 2007; Schober 2017). Critics are mentioned that the Commission and the

European Parliament was let out and that this process was hence not democratic. This position is highly discussed under lawyers and EU officials (Niemeier & Zerbst 2007; Niemeier & Hösch 2017; Schober 2017).

The Prüm Treaty is still the legal framework for police cooperation in Europe. Schober analysed the Prüm Treaty excitingly. The findings can be summarised as the Treaty of Prüm made vast progress in the context of the data exchange of, e.g., DNA. However, in terms of classic policing in frontline work, the Prüm Treaty is not sufficient. Therefore, there is a need for bilateral agreements (Schober, 2017).

#### 5. Analysis

The following chapter focuses on the analysis of the cross-border policing at the three German borders – German-Czech, German-Dutch, and German-Danish border - and the effect of the Prüm Treaty on the bilateral agreements set on these three borders. The analyses table used as a base for this chapter can be found in the appendix.

## 5.1. Cross-border policing at the German-Czech border

The main criminal phenomena in the German-Czech border region identified in the background chapter are human trafficking (illegal migration and the trafficker) and child prostitution. The German-Czech agreement has set several measures to battle these crimes (see Table 1 or 4).

With the cross-border policing agreement, the partners provided a legal base for policing cooperation as through the Czechs missing EU membership, they were not a partner of the Schengen transit agreement. The agreement provided the partners with the right to share knowledge (report service on illegal migration, relevant information exchange with and without request) and the base for cooperation (in forms of mutual operations, meeting, joint teams) (cf. Background 4.2).

Even though the Prüm Treaty provides some of the measures already provided in the bilateral policing agreement between German and the Czech Republic (e.g. exchanging relevant data on request; joint teams), implementing the Prüm Treaty also provided additional progress in the battle against illegal migration. Progress made by the Prüm Treaty is in the area of shared databases on fingerprints and DNA and automatic vehicle register databank.

Also, Prüm extended the area of data exchange in comparison with the German-Czech policing agreement with the implementation of the DNA and fingerprint databases (Art. 2; 8). Hence, DNA or fingerprints can get checked with the partner's data banks, and if there is a positive hit, the partner has to transfer the personal data matching to hit. Also included in the Prüm Treaty is the automatic retrieval from the vehicle register (Art. 12). With that, partner countries can withdrawal information based on the license plate from the partner's databank on the owner and vehicle (see Table 4).

On the field of child prostitution, can mainly the same measures from the German-Czech policing agreement be named as on illegal migration. Here, mainly the information and data exchange described,

shared communication, mutual operations, joint teams, operation of shared police departments, and shared meetings focusing on some instances. Information exchange shared operations, and communication on cases is a way to tackle crimes together, too.

Regarding the Prüm Treaty, there is again to mention the newly implemented databases for DNA and fingerprints. Also, the automatic retrieving of vehicle data might support the fight. However, if child prostitution is an issue that was tackled by the official sites is discussable as the situation background (Chapter 4.2.) has shown.

| Problem            | CB Policing agreement provision | Prüm Treaty provision        |
|--------------------|---------------------------------|------------------------------|
| Illegal migration  | - Information exchange          | - Fingerprints and DNA       |
|                    | - Shared communication          | database                     |
|                    | - Mutual operations             | - Automatic vehicle register |
|                    | - Shared education training     |                              |
|                    | - Data exchange on request      |                              |
|                    | - Joint teams                   |                              |
|                    | - Reporting service on illegal  |                              |
|                    | migration                       |                              |
|                    | - Shared meetings               |                              |
|                    | - Shared operated police        |                              |
|                    | departments                     |                              |
|                    |                                 |                              |
| Child prostitution | - Information exchange          | - Fingerprints and DNA       |
|                    | - Shared communication          | database                     |
|                    | - Data exchange on request      | - Automatic vehicle register |
|                    | - Joint teams                   |                              |
|                    | - Shared meetings               |                              |
|                    | - Mutual operations             |                              |
|                    | - Shared operated police        |                              |
|                    | departments                     |                              |

Table 4: German-Czech Problems, CB agreement provision and the Prüm effect.

It is based on the findings presented in Table 4 arguable that Prüm did not significantly impact but simplified the agencies' work, for instance, through a shared database on DNA or fingerprints and not anymore just on request. Also, the automatic vehicle identification is a simplification with the Prüm Treaty. In addition, did Prüm set a high standard for data protection. In the bilateral agreement, the data protection is according to national law. Prüm sets an extended focus on data protection and regulates this field (Art. 33-41 Prüm Treaty).

For the theoretical framework (cf. table 5), the following is possible to identify. All of the measures analysed in the German-Czech agreement are possible to locate in the first (information exchange) and second (direct cooperation) spectrum. The third spectrum (international missions) is not covered by the bilateral agreement, but this is reasoned through the nature that the international mission needs a supranational letter (e.g. FRONTEX) (cf. Chapter 2.2). For the informal exchange, the measures where officers of both countries get in touch and also have the chance to have an informal exchange can be named for this level. The Prüm Treaty added measures in the first spectrum (databanks). For the second and third spectrum, plus the informal exchange is nothing identified.

As mentioned within the theoretical framework (chapter 2.2), the borders of the spectrums are blurred and cannot be clearly separated (e.g., shared meetings, shared education missions).

| Spectrum/level of CB policing                 | Bilateral CB-agreement                                                                                                                                                                     | Prüm Treaty                                                                           |  |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--|
| Information exchange                          | <ul> <li>Information exchange</li> <li>Data exchange on request</li> <li>Shared meetings</li> <li>Reporting service on illegal migration</li> <li>Shared education and training</li> </ul> | <ul> <li>Fingerprints and DNA database</li> <li>Automatic vehicle register</li> </ul> |  |
| Direct cooperation  3. International missions | <ul> <li>Shared education and training</li> <li>Mutual operations</li> <li>Joint teams</li> <li>Shared operated police departments</li> </ul>                                              | No extension in comparison to bilateral agreement                                     |  |
| Informal exchange                             | Possibly promoted through:      Joint teams     Mutual operations     Shared operated police departments     Shared education and training                                                 | No extension in comparison to bilateral agreement                                     |  |

Table 5: German-Czech measures of the agreement and the Prüm Treaty in context of the Theory. Spectrums and level according to Fijnaut (2011) and Birdi et al. (2020)

In addition, here is to mention again that the Czech Republic was not an EU member till 2004 and not part of the Schengen till 2007. Prüm was first put in the EU legal framework in 2007 (Niemeier & Hösch 2016). Hence Prüm was in force for the Czech Republic five years after the German-Czech agreement was signed. As described in chapter 4.5, some measures in the Prüm Treaty (exchange of document advisors, mutual respirations and sky marshals) were not implemented in the EU legal framework but are according to EU law in force.

### 5.2. Cross-border policing at the German-Dutch border

Around the German-Dutch border were different criminal phenomena's identified in the previous chapter (cf. chapter 4.3). The main problems are drug smuggling organised crime, criminals committing crimes on both sides of the border (e.g., burglary theft), and counter-terrorism. As the phenomena's drug smuggling and criminals committing crimes on both sides of the border are in a similar area of crimes compared to counter-terrorism, these will be in one category and counter-terrorism in another to evaluate the influence of the German-Dutch policing agreement and the influence of the Prüm Treaty easier.

As described in chapter 4.3, the German-Dutch policing agreement set different measures to battle the occurring crimes related to the cross-border region. The main measures can be summarised on the extended information exchange and frontline and investigation cooperation forms.

The Prüm Treaty covered similar topics on the matter of the described criminal phenomena. Such as information exchange on request and not on the request of data (non-personal and personal) or the joint teams (Art. 24 Prüm Treaty). However, the sharing of DNA and fingerprints is here again to highlight. As described before, the shared databases for DNA and fingerprints are the most considerable improvement for cooperation through the Prüm Treaty. Even if the DNA transfer and comparison is possible on request with the bilateral agreement, a shared database with automatic hit or no-hit is easier to handle for the partners. Also, the mentioned automatic vehicle information database is possibly more accessible and faster than requestion information of suspicious vehicles. Again, the extended and clearly formulated data protection of the Prüm Treaty is to mention here (see Table 6 for comparison).

In the field of counter-terrorism, the before mentioned measures of the German-Dutch policing agreement can possibly be named again here. As also with shared departments or, for instance, mutual focus controls, can a person posting a thread to the public safety be detected. Also, undercover observations are possible. In addition to the previously described measures, the support of police officers of the partner country in significant events or catastrophes (Art. 21) is to be mentioned.

However, at the concrete counter-terrorism is nothing stated in the bilateral agreement. There did the multilateral Prüm agreement an extension to the field. In Prüm is the use of sky marshals (armed undercover officers at airplanes) regulated (Art. 17). This gives more safety for air transportation. Also, the information sharing of data and information of possible terrorists is possible without request for prevention (Art. 16). This article builds up a base that the partners are allowed to share names, addresses, and circumstances of the possible threat (Table 6).

| Problem                 | CB Policing agreement provision | Prüm Treaty provision     |  |  |
|-------------------------|---------------------------------|---------------------------|--|--|
| Drug smuggling          | - Information exchange          | - DNA and fingerprints    |  |  |
| (organised crime)       | - Shared education and training | database                  |  |  |
|                         | missions                        | - Automatic vehicle ID    |  |  |
|                         | - shared operated police        |                           |  |  |
|                         | departments, but not operative  |                           |  |  |
|                         | - Joint teams                   |                           |  |  |
|                         | - Shared meetings               |                           |  |  |
|                         | - Observation                   |                           |  |  |
|                         | - Preservation of evidence      |                           |  |  |
|                         | - Controlled import             |                           |  |  |
|                         | - Undercover operations         |                           |  |  |
|                         | - Subordination of officers to  |                           |  |  |
|                         | the partner country             |                           |  |  |
| Criminals committing    | - As above                      | - DNA and fingerprint     |  |  |
| crimes on both sides of | - DNA on request (Art. 10)      | database                  |  |  |
| the border (e.g.        |                                 | - Automatic vehicle ID    |  |  |
| burglary theft)         |                                 |                           |  |  |
| Counter-terrorism       | - Measure named before (but     | - Sky marshals            |  |  |
|                         | just partly)                    | - Information database on |  |  |
|                         | - Support in catastrophes       | terrorism                 |  |  |
|                         | - Shared information            |                           |  |  |

Table 6: German-Dutch Problems, CB agreement provision and the Prüm effect.

For the German-Dutch policing agreement is on overall, to mention that this agreement set an extended policing cooperation. Most of the possible problems mentioned before can be tackled, at least in theory, with the measures of the bilateral agreement. Prüm then did an extension and simplification with the DNA and fingerprint databases (Table 6). In the context of counter-terrorism, Prüm did mention this topic explicitly and covers flight security and a clear legal base for sharing knowledge about terror threats. It is arguable that the German-Dutch agreement did not set a big focus on counter-terrorism and more on cross-border policing in crime prevention and investigation. Prüm set an additional frame for counter-terrorism.

In context of the build-up theoretical framework, the following can be stated (cf. Table 7). Most of the measures provided with the German-Dutch policing agreement can be located in the first (information exchange) and second (direct cooperation). In the context of the Prüm Treat, again, the DNA and fingerprints databanks plus the automatic vehicle ID is in the first spectrum. For the informal exchange are here all possibilities where officials have the chance to get in touch with each other to mention. To

highlight here is again that the lines between the first and second spectrum are blurred (e.g., shared meetings, shared education, and trainings).

| Spectrum/level of CB policing                 | Bilateral CB-agreement                                                                                                                                                                                                                                                | Prüm Treaty                                                                    |  |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--|
| Information exchange                          | <ul> <li>Information exchange</li> <li>Joint teams</li> <li>Information database on terrorists</li> <li>DNA on request</li> <li>Shared meetings</li> <li>Shared operated police departments (nonoperative)</li> <li>Shared education and training missions</li> </ul> | <ul> <li>DNA and fingerprint database</li> <li>Automatic vehicle ID</li> </ul> |  |
| Direct cooperation  3. International missions | <ul> <li>Shared education and training missions</li> <li>Observations</li> <li>Controlled import</li> <li>Undercover operations</li> <li>Subordination of officers to the partner country</li> </ul>                                                                  | No extension in comparison to bilateral agreement                              |  |
| Informal exchange                             | Possibly promoted through:      Joint teams     Shared meetings     Shared operated police departments (nonoperative)     Shared education and training missions     Subordination of officers to the partner country                                                 | No extension in comparison to bilateral agreement                              |  |

Table 7: German-Dutch measures of the agreement and the Prüm Treaty in context of the Theory. Spectrums and level according to Fijnaut (2011) and Birdi et al. (2020)

# 5.3. Cross-border policing at the German-Danish border

The problems regarding the German-Danish border are the organised crimes (biker gangs), drug trafficking and also illegal migration, and human trafficking (cf. chapter 4.4). As organised criminals are involved in systematic drug smuggling, these two topics are covered in one paragraph. For illegal migration and human trafficking, which often leads to prostitution in Denmark (Cornils & Greve 2007), a single paragraph will be used.

The German-Danish agreement is overall an execution agreement of the STA with some additional remarks and concrete operational instructions. Most of the articles are based on the STA. However, the main measures of the German-Danish policing agreement are the information exchange, also of personal data, and frontline policing such as mutual operations and focus controls.

On the matter of drug smuggling and organised crime, the following measures of Prüm are to mention. Prüm did, here again, the mentioned extension with the fingerprint, DNA databases and automatic vehicle register with the mentioned and argued positive effects. Next to that, Prüm defines the use of joint teams for patrol and other operational forms clearer (Art. 24) and also the subordination of partner officers (Art. 24). In addition, Prüm regulates all the administrative challenges such as liability charges (Art. 30). The German-Danish agreement did that not in this extended level.

In illegal migration and human trafficking, the bilateral agreement set just the mentioned before measures and information exchange mutually coordinated operations (with the stated limitations), and requests for assistance can be mentioned for this criminal field.

Prüm then did the extension already described for the sector of organised crime (DNA and fingerprint databases) (Art. 2-6; 8-12). Those are especially relevant to the criminal trafficker and not the persons who are entering the country illegally. In addition, the use of document advisors for training purposes and the support in mutual repatriation.

| Problem               | CB Policing agreement provision | Prüm Treaty provision  |
|-----------------------|---------------------------------|------------------------|
| Organised crimes      | - Information exchange, also    | - DNA and fingerprint  |
| (bikers)              | on personal data on single      | databases              |
|                       | cases (Art. 4)                  | - Automatic vehicle ID |
|                       | - Mutually coordinated          |                        |
|                       | operations with partners        |                        |
|                       | officers for consulting (Art    |                        |
|                       | 4, vague)                       |                        |
|                       | - Request for assistance        |                        |
|                       | according to STA                |                        |
|                       | - Liaison officers (10)         |                        |
|                       | - Cross-border observations     |                        |
|                       | $(Art. 8 \rightarrow STA)$      |                        |
|                       | - Mutual operation teams        |                        |
| Drug trafficking      | As above                        | As above               |
| Illegal migration and | - Mutual operations, focus      | - As above             |
| human trafficking     | controls                        | - Document advisor     |
|                       | - Information exchange          | - Mutual repatriation  |

Table 8: German-Danish Problems, CB agreement provision and the Prüm effect.

For the German-Dansish agreement, it is noticeable that it is mainly related to the STA and mostly names the agencies to contact. In comparison to the other bilateral agreements, the German-Danish agreement is not extensity adding new measures to the already set framework through the STA. However, the exchange of information, also personal data, is regulated. In many cases, the German-Danish agreement is very vague and more an administrative paper for the STA.

The Prüm Treaty then extended the policing relations between Germany and Denmark in the matter of data exchange and even further regulated frontline cooperation through the definition of joint teams. Hence, the Prüm Treaty had an extending effect on the German-Denmark policing cooperation with the named measures.

The measures provided in the German-Danish agreement can be located as shown in the set theoretical frame (Table 9). All measures are, again, in the first and second spectrum for the argued reasons. Again Prüm added to the first spectrum of information exchange. The informal level is with the liaison officers extended. The lines are again blurred, as argued in the previous chapters (here, for instance, liaison officers, mutual operation teams).

| Spectrum/level of CB policing | BilateralCBb-agreement                                                                                                                                                                                                                      | Prüm Treaty                                                                    |  |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--|
| Information exchange          | <ul> <li>Information exchange, also on personal data on single cases</li> <li>Mutual operation teams</li> <li>Mutually coordinated operations with partners officers for consulting (vague formulated)</li> <li>Liaison officers</li> </ul> | <ul> <li>DNA and fingerprint database</li> <li>Automatic vehicle ID</li> </ul> |  |
| 2. Direct cooperation         | <ul><li>Liaison officers</li><li>Mutual operation teams</li></ul>                                                                                                                                                                           | No extension in comparison to bilateral agreement                              |  |
| 3. International missions     |                                                                                                                                                                                                                                             |                                                                                |  |
| Informal exchange             | Possibly promoted through  Liaison officers  Mutual operation teams  Mutually coordinated operations with partners officers for consulting (vague formulated)                                                                               | No extension in comparison to bilateral agreement                              |  |

Table 9: German-Danish measures of the agreement and the Prüm Treaty in context of the Theory. Spectrums and level according to Fijnaut (2011) and Birdi et al. (2020)

#### 6. Conclusion

In the following section, the findings of this thesis will be summarised and based on the outcomes of the sub-questions, an answer will be given to the main research question. In addition, the limitations are discussed together with providing input for further research. The findings of the study can be summarised as following.

#### 6.1. Sub-question I

The theoretical framework answered Sub-Question I (why cross-border policing is needed?). The definition of cross-border policing ("every activity of security cooperation between authorities in the policing sector with other countries based on ad-hoc situations, multilateral, or bilateral agreements") is giving the first notion to cross-border policing. In addition, the cross-border policing activities were defined in the spectrums and level according to Fjinaut (2011) and Birdi et al. (2020). The reasons why cross-border policing is needed were made through the theory section with the arguments of transnationalism of crimes and in the context of the chosen bilateral partners regarding the specific criminal phenomena at the border.

#### 6.2. Sub-question II

The second Sub-Question ("What was the legal base for the cross-bordering policing at the German-Czech, German-Dutch and the German-Danish border before the Prüm Treaty?") can be answered with that the bilateral policing agreements build up the legal base for cross-border policing in an extended way in addition to the STA (for the Netherlands and Denmark). The analysis part showed which measures the partners agreed on to battle crimes and intensified the cooperation, in the case of the Czech Republic, the base for cross-border policing was settled.

## 6.3. Sub-question III

Regarding the third sub-question ("What are the main characteristics of the Prüm Treaty?"), the analysis showed that the main characteristics are especially on the shared databases for DNA and fingerprints with automatic hit or no-hit systems and the automatic vehicle information database. In addition, for the signing partners the Netherlands and Denmark, the agreement on the use of sky marshals, document advisors and the mutual repatriations are in force according to the Prüm Treaty, too. However, those additions in the multilateral Prüm Treaty are just practical simplification for already settled EU law and have hence no real influence on the actual opportunities for the partnerships (Niemeier & Zerbst 2007). Furthermore, the Prüm Treaty focused on the counter-terrorism battle with the shared database on possible public safety threats. The aim of the Prüm Treaty was to promote cross-border policing and the cooperation of the EU members (Niemeier & Zerbst 2007; Schober 2017; Prüm Treaty). In addition, implementing a shared and easier accessible database for relevant information to

investigate cross-border crimes (Niemeier & Zerbst 2007). The main characteristics of the Prüm Treaty are following the exchange of data and the promoting of cross-border policing.

#### 6.4. Answer to the main research-question

To answer the main research question ("To what extent did the Treaty of Prüm change the cross-border policing of Germany with the Czech Republic, Denmark, and the Netherlands?"), it can be the following stated.

The Prüm Treaty had in the exchange of data and shared databases a big impact on cross-border policing. Instead of requesting every single comparison of DNA or fingerprints, the partners had a shared databank with a hit or no-hit system. In addition, the automatic vehicle register databank is helpful for policing, too. Another main improvement on the existing policing agreements is the exchange on potential terror threats, with and without request. Hence, had the Prüm Treaty a positive effect on the bilateral policing agreements, especially in the context of shared databanks. With this Treaty, the work of police agencies is simplified and more efficient. But, the Prüm Treaty focuses more on general cooperation and less on specifics. This is, of course, reasoned through the multiple partners in the Prüm Treaty. In comparison to the bilateral agreements, the partners of the Prüm Treaty cannot focus on specific problematics regarding single borders. This is also noticeable in the context of actual frontline policing as the effect on the bilateral agreements is not as big as on the data sharing. It is stateable that Prüm did not focus on frontline policing and more on the connection of policing (Schober 2017). It is also arguable that the Prüm Treaty worked even when, in the first place, the initiative to build up a European soliton for promoting the cross.-border policing further was not successful. But it worked out as the Prüm Treaty was implemented to the EU legal framework in the timeframe the partners set when agreeing on the Prüm Treaty. However, it promoted the data exchange mainly under regulated data protection measures.

#### 6.5. Limitations and final words

However, it is necessary to state some limitations to this work. First to mention is here that there is a limitation due to the volume of the thesis. It is hard to discuss such a large and important topic in the given extension. In addition, the author of this thesis is not a police officer nor a lawyer. Hence, it is difficult to evaluate the given measures without actually knowing the effect on the daily work life of officers. It is possible that the theoretical base is good and well set up through the agreements and contracts, but it is also possible that the actual frontline work cannot benefit from this (e.g. problems regarding the connection of the databases). Another limitation is set through the research design. At first, there is the method to name. Content summaries are always reducing the content, and so information can go missing easier (Flick 2016). In addition, there is the problematic that the Czech Republic was not a sinning partner of the Prüm Treaty and was then firstly affected by Prüm with

implementation in the EU legal framework. However, even with the argumentation made (verbatim copying of Prüm for EU and missing Articles already part of EU law), this is a possible weakness of the research work.

Next to the limitation also the final words with an outlook for further research needs to be stated. With this thesis, the effect of the Prüm Treaty on the bilateral agreements between Germany-Czech Republic, Germany-Netherlands and Germany-Denmark was researched. This filled a scientific gap with the impact of Prüm on these cross-border policing agreements. Also, criminal phenomena's at each borders before the agreements and the Prüm Treaty were identified and how each agreement had possible influence in the battle against crimes. This can be the beginning for further research, for, instance how frontline police officers experiencing the cross-border policing provided with the agreements and how it worked beyond the theory.

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# 8. Data Appendix

| Measure                                | Czech Republic                                                                                  | Netherlands                                                                                                               | Denmark                                                                                   | Prüm                                                                                                                                |
|----------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Information exchange                   | Yes, on (new) forms of crimes, situation reports, suspects, events (Art. 3)                     | Yes, in general<br>terms with non-<br>personal data<br>(typically<br>behaviour, crime<br>forms (Art. 4).                  | Yes, also<br>personal data<br>what is in the<br>context of border<br>crimes (Art. 4)      | Yes, to prevent crimes, especially in cases of events, non-personal data with and without request (Art. 13).                        |
|                                        |                                                                                                 | In some instances, without request and even personal data if relevant for investigation (Art. 15) or prevention (Art. 17) |                                                                                           | In the context of events also personal data can be shared if reasoned through a concrete danger, with and without request (Art. 14) |
| Shared communication                   | Yes, contact<br>persons, a<br>delegation of<br>experts,<br>hospitation (Art.<br>3)              |                                                                                                                           |                                                                                           |                                                                                                                                     |
| Mutual coordination of operations      | Yes, shared situation reports and shared operations (Art. 3)                                    |                                                                                                                           | Yes (vague), one country can support the partners country in single cases (Art. 4),       |                                                                                                                                     |
| Communication (non-personal)           | Yes, coordinated frequencies, etc. (Art. 3)                                                     | Yes, information<br>about that, also<br>equipment (Art.<br>4)                                                             |                                                                                           |                                                                                                                                     |
| Sharing of police equipment on request | Yes (Art. 3)                                                                                    | Information<br>about used<br>equipment (Art.<br>4)                                                                        |                                                                                           | In case of major events, catastrophes, etc. (Art. 26)                                                                               |
| Shared education and training missions | Yes (Art 3)                                                                                     | Yes (Art. 4),<br>especially on the<br>cross-border<br>situation, laws of<br>partner countries<br>particular focus         | Yes (Art. 5)                                                                              |                                                                                                                                     |
| Request for assistance                 | Yes, especially<br>on personal data<br>but also police<br>questioning and<br>forensics (Art. 4) | Yes, on personal data according to the STA (Art. 7)                                                                       | Yes, according to<br>the STA. More<br>on competencies<br>and immediate<br>answer (Art. 6) | Yes, on<br>anonymous data<br>(Art. 13).<br>Also, on<br>everything in STA<br>(Art. 27).                                              |

| C1 1 4 1                                                         | 37 (A 1.5)                                                                                                  | X/ C                                                                                                                                                                                     |                                                                             |                                                                                                                                             |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| Shared operated police departments                               | Yes (Art. 5)                                                                                                | Yes, for information exchange but can't do operational missions (Art. 24)                                                                                                                |                                                                             |                                                                                                                                             |
| Joint teams                                                      | Yes, joint teams<br>in patrols, in<br>police operations<br>or BOLO, or<br>criminal<br>prevention (Art<br>6) | Yes, if needed<br>(Art. 4; 19) and<br>also special<br>forms like<br>analyses task<br>forces etc. (Art.<br>19)                                                                            |                                                                             | Yes, possible for<br>different kinds<br>(patrol but also<br>every other<br>operation form) if<br>in order with<br>national law (Art.<br>24) |
| Subordination of officers to partner country                     | Yes (Art. 7)                                                                                                | Yes, even with<br>executive rights<br>under the<br>direction of<br>hosting officers<br>(Art. 4; Art.6)                                                                                   |                                                                             | Yes, if in order with national law. (Art. 24)                                                                                               |
| Hot pursuit in partners territory                                | Yes, under certain conditions (Art. 8)                                                                      | Yes, according to<br>the STA but also<br>for BOLO,<br>routine checks or<br>to fulfil warrants<br>(not up to 30km<br>but to 150km)<br>(Art 12; 17)                                        | Yes, according to<br>the STA and<br>what agencies are<br>to inform (Art. 9) |                                                                                                                                             |
| Reporting service<br>on illegal<br>migration                     | Yes, about<br>movements,<br>routes, and illegal<br>border crossing<br>(Art. 9)                              |                                                                                                                                                                                          |                                                                             |                                                                                                                                             |
| Shared meetings                                                  | Yes (Art. 10)                                                                                               | Yes (Art. 4)                                                                                                                                                                             |                                                                             |                                                                                                                                             |
| Legal rights and authorities about officers in a partner country | Yes, regulated don't have executive rights (Art. 11)                                                        | Yes, must act under the national law of the hosting country (Art. 1). No executive rights if not otherwise stated (Art. 30). Legal status like officers in the hosting country (Art. 33) | Yes, under the same rights as the hosting police officers (Art. 12)         | Yes, possible but<br>under supervision<br>by officers from<br>the hosting<br>country (Art. 24)                                              |
| Uniform,<br>firearms, and<br>other equipment                     | Allowed to wear<br>and carry<br>firearms just in<br>case of self-<br>defence (Art. 11)                      | Allowed, not<br>only firearms but<br>also batons,<br>pepper spray, and<br>service dogs (Art.<br>31), use just in                                                                         | Allowed, according to the STA.                                              | Allowed, to wear<br>and carry, using of<br>weapons just for<br>self-defence (Art.<br>28)                                                    |

|                                               |                                                                                   | self-defence (Art. 32)                                                                       |                                                                                        |                                                                                                        |
|-----------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Disciplinary proceedings                      | Yes, are with the home country (Art. 11)                                          | To the home country (Art. 34)                                                                |                                                                                        | With the home country (Art. 32)                                                                        |
| Customs                                       | Yes, everything is custom free (CZ not an EU member at this point!) (Art. 12)     |                                                                                              |                                                                                        |                                                                                                        |
| Liability charge                              |                                                                                   | Yes, Art 28                                                                                  |                                                                                        | Art. 30                                                                                                |
| Denying clausal                               | Yes, if<br>sovereignty or<br>internal security<br>is affected (Art.<br>14)        | Yes, if<br>sovereignty,<br>internal security,<br>or against<br>national law (Art.<br>35)     | Yes, if<br>sovereignty or<br>internal security<br>is affected (Art.<br>14)             |                                                                                                        |
| Data protection                               | Yes, carefully,<br>confidential, and<br>according to<br>national law (Art.<br>15) | Yes, under<br>national law,<br>STA (Art. 26).                                                | Yes, under<br>national law,<br>restrictions, and<br>deletion if not<br>needed (Art. 7) | High level of data protection. Detailed and precise advice on how to handle personal data (Art. 33-41) |
| Legal relations to other regulations          | Other relations<br>shall not be<br>affected (Art. 16)                             | Other relation<br>shall not be<br>affected (Art. 1)                                          |                                                                                        | This agreement just in force if no collision with other legal frameworks (Art, 47)                     |
| Implementation and changing procedure         | Yes, it regulates<br>which agencies<br>are in charge<br>(Art. 17)                 |                                                                                              |                                                                                        |                                                                                                        |
| Liaison officers                              |                                                                                   | Yes, according to STA (Art. 30)                                                              | Yes, according to the STA (Art. 4)                                                     |                                                                                                        |
| Cross-border<br>observation                   |                                                                                   | Yes, according to<br>the STA but with<br>additions. Also,<br>to execute<br>warrants (Art 11) | Yes, according to<br>the STA (Art. 8)                                                  |                                                                                                        |
| Cross-border<br>observation for<br>prevention |                                                                                   | Possible, on request, if the hosting country can't fulfil this or in a hurry (Art. 16)       |                                                                                        |                                                                                                        |
| Turning on partners territory                 |                                                                                   | Yes, regulated (Art. 27)                                                                     | Yes, regulated (Art. 10).                                                              |                                                                                                        |
| Administrative purposes                       |                                                                                   | Regulates those agencies can have additional administrative                                  | Regulates which agencies can agree on arrangements to                                  | Yes (Art. 44)                                                                                          |

|                                                                  | agreements (Art. 36)                                                                                                                                                | fulfil the contract (Art. 15)    |                                                                                                                     |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Evaluation                                                       | An expert committee can be set up on request to evaluate (Art. 37)                                                                                                  | Yes, after three years (Art. 17) | Yes, with minister committee and experts committee (Art. 43)                                                        |
| Preservation of<br>evidence in case<br>of danger in<br>execution | Yes, on request<br>to the partner's<br>agencies (of<br>traces, evidence,<br>and also<br>searches)                                                                   |                                  |                                                                                                                     |
| Physical examination                                             | On request, under<br>national law and<br>if in relation to<br>crime (Art. 9)                                                                                        |                                  |                                                                                                                     |
| Transfer and comparison of DNA                                   | Yes, on request.<br>If DNA is not in<br>the database of<br>the partner, the<br>partner tries to<br>achieve the<br>requested DNA<br>(Art. 10)                        |                                  | Transfer after hit in the anonymous database (Art. 3-5) Achieving of DNA on request in the partner country (Art. 7) |
| Controlled import                                                | On request,<br>partners can ask<br>for controlled<br>import of illegal<br>goods to the<br>partner's territory<br>to conduct further<br>investigations<br>(Art. 13). |                                  |                                                                                                                     |
| Undercover investigations in a partner country                   | Yes, on request (Art. 14)                                                                                                                                           |                                  |                                                                                                                     |
| Undercover<br>officer in crime<br>prevention                     | If started in the home country can be continued in the partner country (Art. 18)                                                                                    |                                  |                                                                                                                     |
| Prevention in cross-border situation of danger for life          | Yes, if needed,<br>police officers<br>can take<br>measures on the<br>other border site<br>to prevent serious<br>danger (Art. 21)                                    |                                  | Yes, if needed, officers can take measures to prevent serious crimes on the other border site (Art. 25)             |
| Support in major events, catastrophes, and serious accidents     | Yes, possible (Art. 22)                                                                                                                                             |                                  | Yes, possible (Art. 26)                                                                                             |

| Demand reponse centers                               | If needed,<br>checkpoints can<br>be set up also on<br>the partner's site<br>(Art. 23)    |                              |                                                                                                       |
|------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------|-------------------------------------------------------------------------------------------------------|
| Use of air and water vehicles                        | Can be used (Art. 25)                                                                    |                              |                                                                                                       |
| Costs                                                | Every country pays its own bills (Art. 38)                                               | 50/50 for shared departments | Every country pays its own bills on its site (Art. 46)                                                |
| Including of customs                                 | Separate<br>paragraph when<br>to inform<br>customs. Other<br>agreements just<br>included |                              |                                                                                                       |
| Implementation of a national DNA-database            |                                                                                          |                              | Yes, it should be developed in every partner country. AAnonymiseddata (Art. 2)                        |
| Automatic<br>retrieval from<br>DNA-database          |                                                                                          |                              | Anonymised hit or no-hit (Art. 3)                                                                     |
| Automatic<br>comparison of<br>DNA                    |                                                                                          |                              | Comparison of<br>DNA databases<br>with open cases<br>(Art. 4)                                         |
| Transfer of personal data in case of a DNA hit       |                                                                                          |                              | If hit within the anonymous DNA-database transfer of personal data according to national law (Art. 5) |
| National contact<br>points for DNA<br>tests          |                                                                                          |                              | Yes (Art. 6)                                                                                          |
| Database for fingerprints                            |                                                                                          |                              | National states are implementing a database for fingerprints (anonymous) (Art. 8)                     |
| Automatic retrieval of fingerprints                  |                                                                                          |                              | Anonymus Hit or<br>no-hit (Art. 9)                                                                    |
| Transfer of personal data in case of fingerprint hit |                                                                                          |                              | Yes, according to national law (Art. 10)                                                              |

| National contact point for fingerprints               | Yes (Art. 11)                                                                                                           |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Automatic retrieval from the vehicle register         | Yes, information of the owner and car details in single cases (Art. 12)                                                 |
| Information sharing to prevent terrorism              | Sharing of information about possible terrorist, without request (Art. 16)                                              |
| Sky Marshalls                                         | Yes, sets the base<br>for sky marshals<br>(Art. 17)                                                                     |
| Use equipment for sky marshals                        | Yes, can carry equipment firearms on planes (Art. 18)                                                                   |
| Document<br>advisor                                   | Sending of document advisor to known arrival or transit states for illegal migrants. Also, sharing knowledge (Art. 20). |
|                                                       | The tasks are in training of local officials and civilians (Art. 21)                                                    |
| Support with repatriation                             | Partners support each other with repatriation and offer to do mutual ones (Art 23).                                     |
| Acting under law                                      | If attacked or same rights like hosting police officers (Art. 32)                                                       |
| Definition and scope of procession personal data etc. | Clear definition of terms (Art. 33)                                                                                     |
| Declarations and naming                               | With the ratification, the members hand in a list with contact points for all the named measures (DNA, fingerprints,    |

|  |  | terrorism data, |
|--|--|-----------------|
|  |  | etc.) Art. 42   |