

Kjetil Rommetveit: Regimes of co-production: Large scale information systems in the European Union

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Four regimes, four overlapping processes

- Schengen area (1990-)
- Area of Freedom, Security and Justice (1999-)
- Global fight against terrorism (2001-)
- (Pragmatic – Lisbon agreement)


The inner market 1986 –

- Schengen Information System (1995)
- Planned: Eurodac and CIS (++)



The Data Protection Directive (1995)

- transparency
 - purpose limitation
 - Proportionality

 - Art. 29 Working Party
 - European Data Protection Officer
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Sovereignty and (what kind of?) integration



2) An Area of freedom security and justice



TAMPERE EUROPEAN COUNCIL 15 AND 16 OCTOBER 1999

PRESIDENCY CONCLUSIONS

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INTRODUCTION

The European Council held a special meeting on 15 and 16 October 1999 in Tampere on the creation of an area of freedom, security and justice in the European Union. At the start of proceedings a meeting was conducted with the President of the European Parliament, Mrs Nicole Fontaine, on the main topics of discussion.

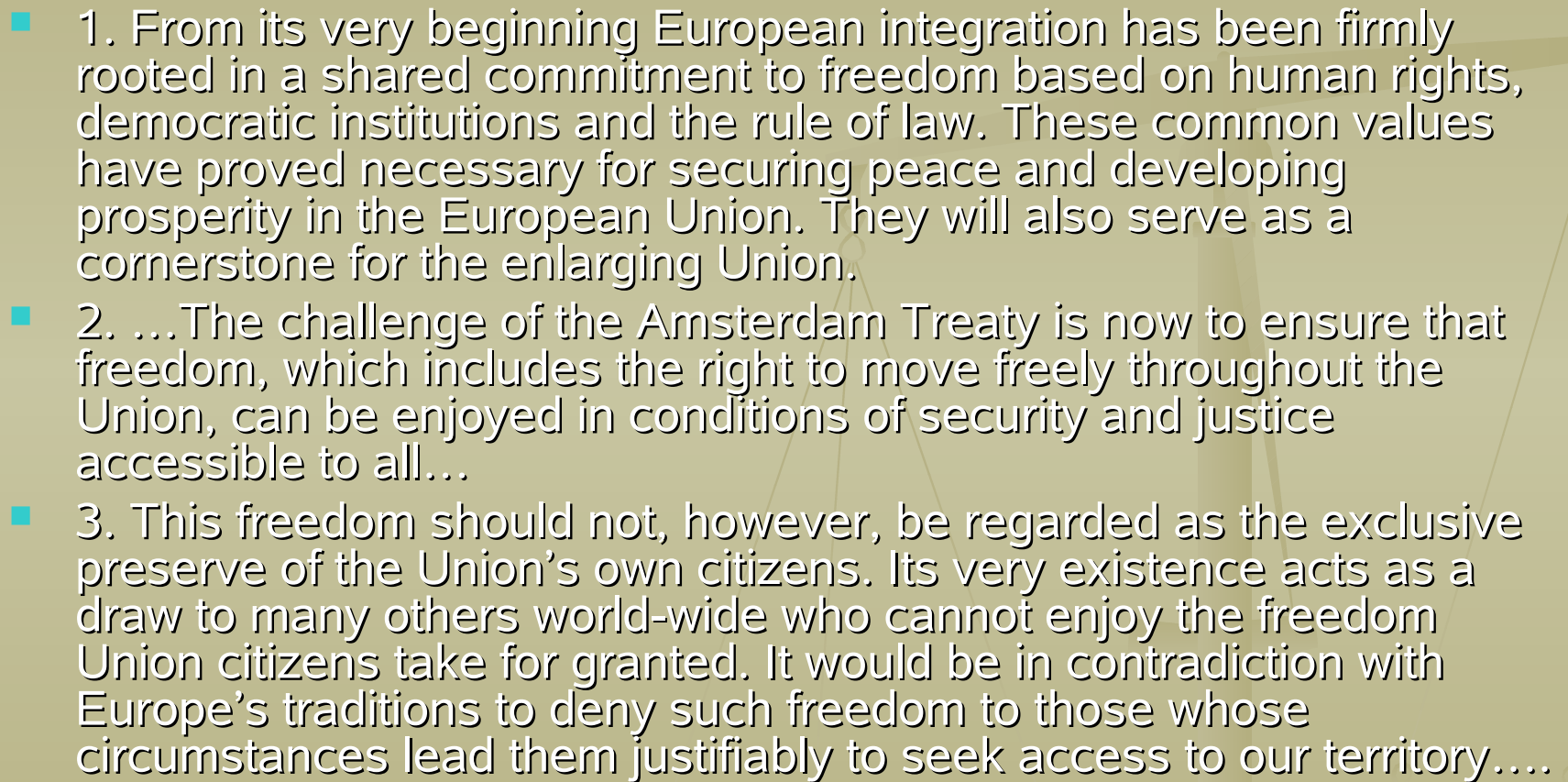
The European Council is determined to develop the Union as an area of freedom, security and justice by making full use of the possibilities offered by the Treaty of Amsterdam. The European Council has sent a message to reaffirm the importance of this objective and has agreed on a number of policy orientations and priorities which will speedily make this area a reality.

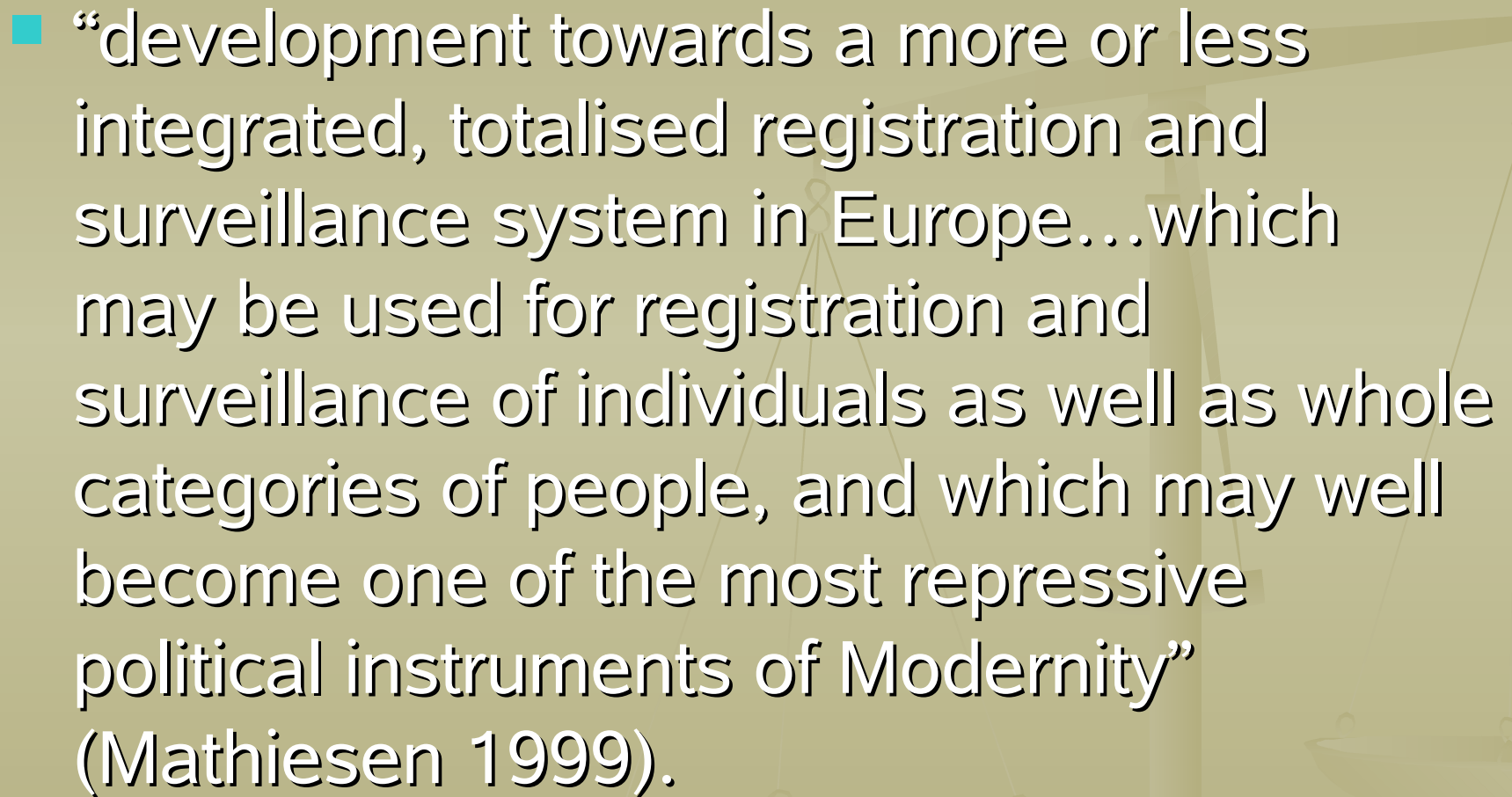
The European Council will place and maintain this objective at the very top of the political agenda. It will keep under constant review progress made towards implementing the necessary measures set by the Treaty of Amsterdam, the Vienna Action Plan and the present conclusions. The Commission is invited to make a proposal for an appropriate scoreboard to that end. The European Council will ensure the necessary transparency and of keeping the European Parliament regularly informed. It will hold a full debate assessing progress at its December meeting in 2001.

In close connection with the area of freedom, security and justice, the European Council has agreed on the composition, method of work and practical arrangements (attached in the annex) for the drawing up a draft Charter of fundamental rights of the European Union. It invites all parties involved to ensure that work on the Charter can begin rapidly.

The European Council expresses its gratitude for the work of the outgoing Secretary-General of the Council, Mr. Jürgen Trumpf, and in particular for his contribution to the development of the Union under the force of the Treaty of Amsterdam.

Given that one of the focal points of the Union's work in the years ahead will be to strengthen the common foreign and security policy, including developing a European security and defence policy, the President of the Council expects the new Secretary-General of the Council and High Representative for the CFSP, Mr. Javier Solana, to make a key contribution to this objective. Mr. Solana will be able to rely on the full backing of the Council in exercising his powers according to Article 18(3) of the Treaty so he can do full justice to his tasks. His responsibilities will include co-operating with the Presidency to ensure that deliberations on foreign and security policy matters are efficiently conducted with the aim of fostering continuity and consistency of policy on the basis of the common interests of the Union.

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- 1. From its very beginning European integration has been firmly rooted in a shared commitment to freedom based on human rights, democratic institutions and the rule of law. These common values have proved necessary for securing peace and developing prosperity in the European Union. They will also serve as a cornerstone for the enlarging Union.
 - 2. ...The challenge of the Amsterdam Treaty is now to ensure that freedom, which includes the right to move freely throughout the Union, can be enjoyed in conditions of security and justice accessible to all...
 - 3. This freedom should not, however, be regarded as the exclusive preserve of the Union's own citizens. Its very existence acts as a draw to many others world-wide who cannot enjoy the freedom Union citizens take for granted. It would be in contradiction with Europe's traditions to deny such freedom to those whose circumstances lead them justifiably to seek access to our territory....

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- “development towards a more or less integrated, totalised registration and surveillance system in Europe...which may be used for registration and surveillance of individuals as well as whole categories of people, and which may well become one of the most repressive political instruments of Modernity” (Mathiesen 1999).

Steve Peers (2006). EU Justice and Home Affairs Law

- “The entry into force of the Treaty of Amsterdam created hopes that EU decision-making on JHA-matters would be more open, that judicial control in this area would strike an acceptable balance between the protection of human rights and civil liberties and the interests of migration control and ensuring public security”

3) Securitisation

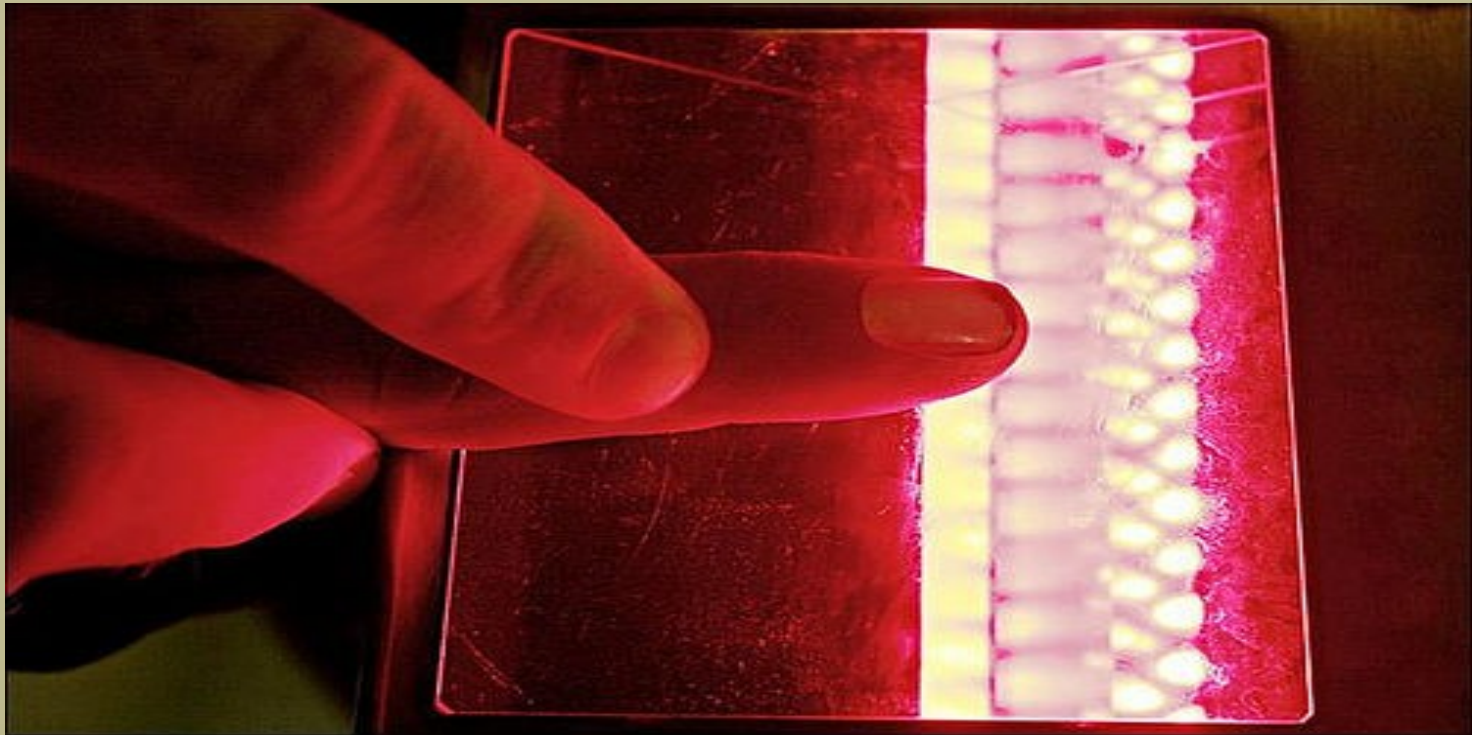




“In the aftermath of the tragic events of September 11, 2001 the Commission was asked by Member States to take immediate action in order to improve document security”



Biometrics



ICAO Doc. 9303:



Mandatory: facial image

Optional: fingerprints and iris scans

Interoperability:

“...the ability of IT systems and of the business processes they support to exchange data and to enable the sharing of information and knowledge” COM(2005) 597 final



Principle of availability:

- "a law enforcement officer in one Member State who needs information [in the pre-trial phase] in order to perform his duties can obtain this from another Member State and that the law enforcement agency in the other Member State which holds this information will make it available for the stated purpose."

The Coelho Report (Parliament LIBE committee):

- “It should be emphasised that the European Council made a political decision to introduce biometric identifiers in EU passports without any input from practitioners and without knowing the magnitude of the problem...”.
- - “a process which lacks transparency and democratic legitimacy”.

Statewatch News Online: The road to "1984"

- "...geared to creating a society where everyone's movements and communications (by phone and e-mail) are subject to surveillance, where everyone is a "suspect". Such a society has more in common with an authoritarian state than a democracy"

Michael Chertoff, US Secretary of Homeland Security, Press release on US – EU collaborations, Brussels 2005:

- “Allow me to share with you where I would like to see us move - toward a world that is banded together by security envelopes, meaning secure environments through which people and cargo can move rapidly, efficiently, and safely without sacrificing security or privacy. A world where, with the proper security vetting, the proper technology, the proper travel documents, and the proper tracking of cargo, it would be possible to move relatively freely from point to point all across the globe.
- For those within the security envelope, we will have a high degree of confidence and trust, so that trusted travellers and shippers don't have to be stopped at every point along the way to be re-vetted and rechecked. And that would enable us to focus more of our resources for those outside the security envelope - for the kind of in-depth analysis and the kind of in-depth vetting that is necessary to make sure those who seek to harm us do not slip through the cracks”

Franco Frattini, previous vice president of the Commission:

- “There is a need to overcome the traditional dogma of seeing collective security and individual freedom as two opposed concepts which exclude each other. Individual rights can only flourish in an atmosphere of collective security” (2007)

Boltansky and Thevenot (1999):

- "..the analysis of a particular kind of moment which plays an important role in social life. To label those kinds of moments, we will use the phrase moments critiques (critical moments) which makes reference, at the same time, to the critical activity of the persons and to the unusualness of a moment of crisis. What is pertinent for the argument is the reflexivity of a moment of crisis. The starting situation is something like the following: people, involved in ordinary relationships, who are doing things together, -let us say, in politics, work, unionism - and who have to coordinate their actions, realize that something is going wrong; that they cannot get along anymore; that they have to change"

Co-production:

- “...calls attention to the social dimensions of cognitive commitments and understanding, while at the same time underscoring the epistemic and material correlates”
- The mutual constitution of social, technological, legal, digital, (etc.) order.

Regimes of co-production:

- Aimed at the production of both legal and digital codes for the sake of upholding and protecting a certain vision, or imaginary, of socio-technical order.
- Age-old visions of social and political order enter into these regimes.

Regimes of justification

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Regime	<u>Source of justification</u>	<u>Diagnostic storyline</u>	Action	<u>Socio-technical imaginary</u>	Who?
<u>Internal market</u> (1986 -)	Promote growth, secure peace (Adam Smith)	Borders are detrimental to economic growth	<u>Remove internal borders,</u> <u>strengthen external borders</u>	Inter-connection of market agents	“All EU citizens”; Business, industry
<u>Freedom security and justice</u> (1993 -)	Freedom and Human rights are the cornerstones of European society (Kant, Enlightenment thinkers)	Citizens in need of protection against both state and business	Transparency, purpose limitation and proportionality Data protection and democratic debate	Information exchange must be contained, legally and politically	Parliament, Data protection authorities, NGOs, academics
<u>Securitisation</u> (2001 -)	Security is a precondition for freedom (Machiavelli, Hobbes)	Terrorism, illegal immigration & crime: fundamental challenges to our way of life	Interoperability and availability of information	Information exchange is essential; technology can pick out suspect identities	Ministers of the interior, law enforcement, security industry