



THE OBSTACLES AND ENABLERS OF US-EU COUNTER-TERRORISM COOPERATION: THE CASE OF THE PASSENGER NAME RECORD

Rain Alev, MA

Independent researcher

Keywords: United States, European Union, counter-terrorism, terrorism, co-operation, negotiations, international relations, security cooperation, security, complex interdependence, international regime theory.

ABSTRACT

In this article the author examines the European Union (EU) and the United States (US) counter-terrorism cooperation in the case of the Passenger Name Record. The aim of this article is to find the obstacles and enablers of EU-US counter-terrorism cooperation and offer suggestions to make the cooperation more efficient. In addition, the author determines the distribution of resources in this security relationship to make more accurate suggestions. Previous studies suggest that the primary obstacle to counter-terrorism cooperation in the PNR case is *uncertainty* caused by different data protection standards on either side of the Atlantic Ocean. The author used the process tracing method and conducted interviews to determine the obstacles and enablers of trans-Atlantic security cooperation. Although uncertainty was identified as the primary obstacle, it was not caused purely by data protection standards, but also by the fact that the EU was not entirely sure how PNR data would be used after it has been forwarded to Customs and Border Protection by the air carrier. The primary enabler of counter-terrorism cooperation in the PNR case was the more accommodating approach of the US - which led to an agreement. Nevertheless, experts and security strategies suggested that EU-US counter-terrorism cooperation works well and there have been no major problems regarding PNR data exchange.

INTRODUCTION

US-EU counter-terrorism cooperation began to deepen after the 9/11 terrorist attacks, and the years following these attacks saw many new agreements to foster this cooperation. Before 9/11 the EU had not done much to improve trans-Atlantic counter-terrorism cooperation and studies on transatlantic security cooperation were mostly focused on NATO (Gardner & Stefanova, 2001; Spence, 2008; Wolff, 2009; Fahey, 2013, p. 1). After 9/11 however, in 2002 the Council's frame decision pushed member states to set their legislation regarding terrorist crimes and definition of terrorism compatible across member states (Buşe, 2014, p. 48; Council of the European Union, 2002). In 2003 the European Security Strategy (ESS) was adopted, which renewed the EU as a global security actor, by defining the strategic aims and terrorism as the main source of threat (EEAS, 2003; Buşe, 2014, p. 48). Additionally, in 2004 the Hague programme was published as a response to the 9/11 attacks, which set the EU's priorities in the field of internal security (Council of the European Union, 2005a). These documents were followed by a series of agreements between the US and the EU. This article is focused on one of those agreements, the Passenger Name Record (PNR) agreement, which regulates the transfer of air travelers' data between the US and the EU.

After the 9/11 terrorist attacks, the US adopted a legislation which requires air carriers to transfer PNR data to the Department of Homeland Security (DHS) if the flight goes to or through US air space (Fahey, 2013, p. 5). Such a requirement did not comply with the EU's data protection directive, which stipulated an „adequate level of protection“ to transferred data (European Parliament and of the Council, 1995). This led to a situation where European air carriers couldn't transfer passengers' data to the DHS due to European data protection regulation and on the other hand, they were supposed to transfer passengers' data if they were flying to the US (Hailbronner *et. al.*, 2008, p. 189). Therefore, US-EU PNR agreements were necessary to regulate the transfer of passengers' data.

The aim of this article is to determine the main obstacles and enablers of the US-EU counter-terrorism cooperation. This article is based on the author's master's thesis and it seeks to summarise and improve the

research done in the thesis. The fact that PNR agreements were concluded three times (four times with the interim agreement) (EU-USA, 2004; EU-USA, 2006; EU-USA, 2007; EU-USA, 2012) could be considered as an indication of the obstacles. In addition, the European Court of Justice (ECJ), having assessed the EU-Canada PNR agreement after such a request by the European Parliament (EP), concluded that the problems that became evident apply to the US-EU agreements as well. These problems included invasion of privacy, inadequate data protection and unclear conditions of data transfer (European Court of Justice, 2017). Earlier studies on this matter have brought out different data protection mechanisms (Hailbronner *et al*, 2008, p. 188) and data protection in general (Archick, 2013, p. 170; Nino, 2010, p. 71; Guild, 2007, p. 2; Byrne, 2012, pp. 7-9) as the main obstacles to the counter-terrorism cooperation. Initiative to cooperate and reach an agreement on one or both sides (Yano, 2010, p. 504) and contacts and dialogues between US and EU officials (Archick, 2013, p. 196) have been brought out as enablers of transatlantic security cooperation. In addition, it has been considered an enabler of cooperation when the US prefers negotiating with the EU instead of member states bilaterally (Archick, 2013, p. 196). An enabler of cooperation is therefore a condition which mitigates the obstacles to the cooperation and/or guides towards a better cooperation.

Data protection has been brought out by numerous studies as the central obstacle to transatlantic counter-terrorism cooperation (Nino, 2010, p. 85; Fahey, 2013, pp. 2-4, Hailbronner *et al.*, 2008, pp. 194; Yano, 2010, p. 502; Byrne, 2012, p. 7; Casagran, 2015). The PNR negotiations should reflect these obstacles since PNR as a counter-terrorism instrument involves transferring air travelers' personal data and the different data protection standards of the US and EU. That is why PNR agreements and negotiations are the focus of this article. The theoretical framework used in this study refers to *uncertainty* as the preeminent obstacle to international cooperation (Hasenclever *et al.*, 1997, p. 33; Keohane, 1984, p. 97). **This uncertainty is reduced by more efficient cooperation and by the emergence of regimes** (Keohane, 1984, p. 97; Hasenclever *et al.*, 1997, p. 36). Therefore, the formulated hypothesis is that the main obstacle to US-EU counter-terrorism cooperation is the uncertainty derived from the differences in data protection.

The importance of studying trans-Atlantic counter-terrorism cooperation is illustrated by the fact that when in 2011 terrorism was considered a very serious security threat by 58% of the EU's population, by the year 2017 that number had increased to 76% (Eurobarometer, 2017, p. 4). Just 4% of the EU's population did not regard terrorism as a threat to the EU's internal security (Eurobarometer, 2017, p. 4). Both in the US and in most of the EU member states, ISIS was considered the primary security threat, especially in the states which had experienced more recent terrorist attacks (Poushter & Manevich, 2017). EUROPOL estimates that around 5000 people from the EU had travelled to conflict regions to join ISIS (EUROPOL, 2017, p. 12). Foreign fighters returning from conflict regions pose a great potential security threat because of their radical views and combat training.

Countering this threat requires law enforcement agencies to cooperate efficiently with other states' agencies and to own an oversight on travellers. Therefore, studying this kind of counter-terrorism cooperation would prove useful in fostering and building cooperation instruments such as PNR. Furthermore, terrorism is increasingly linked to other criminal activities such as the arms trade, drug trafficking and trafficking of persons - as they have become a source of income for terrorist organisations (European Parliament and the Council, 2017). In addition, the EU's PNR directive was adopted in 2016 and it has not yet been fully implemented in the member states. This article could prove useful to officials working in the field of international cooperation regarding security and data transfers as it helps to understand the US-EU security cooperation and data protection's place in this cooperation. Furthermore, this article could be of use to scholars and officials dealing with international cooperation and negotiations, as the author traces negotiation processes and combines it with other research methods to draw conclusions. However, the article could be of most use when dealing with similar security instruments, as the arguments of the sides and methods of influencing the other side are similar.

1. NEGOTIATION PROCESSES

The first PNR negotiations began in December 2003 and were concluded in 2004 (Fahey, 2013, p. 5; EU-USA, 2004). The EU's aim during the negotiations was to include as much data protection as possible, while the US' aim was to guarantee minimal barriers to data transfers (Anagnostakis, 2017, p. 122). The EU got concessions from the US by referring to judicial chaos which would take place in case the PNR agreement was not signed (*threat*) (Anagnostakis, 2017, p. 127). Those concessions were partly possible due to a lack of consensus in the US because the DHS had been pulled into a scandal for illegally collecting PNR data on domestic flights (Baker, 2010, p. 99). However, the European Commission (EC) had been criticised for making demands too soft because the EC was afraid that a too hard stance towards the US would decrease the latter's trust towards the EU and therefore lead to a worse agreement (Interview EU, 2012c ref Anagnostakis, 2017, p. 128). Thus, the lack of consensus in the US and the EU's threats brought the first PNR agreement closer to the EU's aims than the following agreements (Interview US, 2012c ref Anagnostakis, 2017, p. 129). Nevertheless, the first PNR agreement caused a lot of discussion and disapproval in the EU mainly for being unnecessary, disproportional and was labeled as an invasion of the right to privacy as well (Byrne, 2012, p. 7).

The European Parliament (EP) turned to the ECJ, which annulled the EC and the Council of the EU's decisions allowing the signing of the agreement for being judicially based on an incorrect basis (Joined cases C-317/04 ja C-318/04). The ECJ decided that the PNR agreement belongs to the law enforcement area and should therefore be signed in the EU's third pillar framework (Police and Judicial Co-operation in Criminal Matters) not the first pillar framework (European Communities) (Joined cases C-317/04 ja C-318/04). However, the ECJ stated that the first PNR agreement shall stay in force for four months (until September 30) to give time for new negotiations (Joined cases C-317/04 ja C-318/04). This suited the US well because they had wanted to include more of a law enforcement perspective from the beginning of negotiations, since transferring PNR data is not just a data protection issue, but mainly a counter-terrorism and security issue (Anagnostakis, 2017, p. 131). At the same time

however, the EU started to realise the usefulness of PNR data transfers as a counter-terrorism tool (European Report, 2003b ref Anagnostakis, 2017, p. 126) and the preparations to launch the EU's PNR system began in 2007 with a proposal by the EC (Makaveckaite, 2016, p. 9).

The second PNR agreement was signed in 2007 and it was considered less in favour of the EU's demands than the first one as the US used the new negotiations to extend data protection time (De Witte, 2008, p. 11). In the first agreement, PNR data could be shared between agencies only under strict rules and the DHS found it greatly restricted the US' counter-terrorism capabilities (Baker, 2006; Baker, 2010, pp. 100-101). The US' position in the second negotiations was strengthened by the fact that the alternative to a US-EU agreement was the US signing a number of bilateral agreements with the EU member states (*threat*) (Byrne, 2012, p. 6). Therefore, the annulment of the agreement by the ECJ was beneficial to the US and decreased the EU's power in the negotiations (Anagnostakis, 2017, p. 131). Thus, the EU's aim in the negotiations was to preserve the agreement's *status quo* and only change the judicial basis (UK House of Lords, 2007, p. 43). The EC officials emphasized that the second agreement's content should remain the same and only the judicial basis should be changed, because the ECJ did not comment on the content of the agreement (Schofield & Tardy, 2006; Associated Press International, 2006a). The US on the other hand, wanted to immediately sign an agreement with changes to the content and make the sharing of PNR data between agencies more flexible and add more PNR data fields to be collected (Baker, 2010, p. 122; US Fed News, 2006; Associated Press International, 2006b).

In the negotiations the EU used two tactics. Firstly, the EU threatened with the consequences (judicial chaos) if the US should withdraw from the negotiations (*threat*). Furthermore, the EU's negotiators said that the air carriers might decline from sharing PNR data or even not fly to the US at all (*threat*) (International Herald Tribune, 2006a; Baker, 2010, p. 125). Secondly, the EC negotiators said that if the first agreement should expire, the US data protection standards would not be deemed adequate by the EU and it would stop Canada from sharing PNR data with the US (*politicisation*) (Baker, 2010, pp. 125-126). The US turned bilaterally to the EU member states to ascertain their governments' positions should the agreement expire (US Cable, 2006a; US Cable, 2006b; US Cable,

2006e). The US found out that France (US Cable, 2006c), Germany (US Cable, 2006d), Italy (US Cable, 2006e) and Czech Republic (US Cable, 2006b) would be willing to transfer PNR data even if the US-EU negotiations would stop. The US was ready to negotiate with member states bilaterally in case an agreement with the EU was not reached (*threat*) (Agence France-Presse, 2006b). Furthermore, British Airways and Air France were ready to transfer PNR data to the US even if that would have caused court cases in the EU (The Independent, 2006; US Cable, 2006c). Therefore, the fragmentation inside the EU and the positions of the air carriers both weakened the EU's position in the negotiations.

The EU's negotiators did not have the mandate to meet the US' demands and the negotiations stopped on September 29 (Agence France-Presse, 2006a). The absence of an agreement did not cause a judicial chaos nor cancellation of trans-Atlantic flights, and air carriers continued transferring PNR data to the US authorities (European Report, 2006b ref Anagnostakis, 2017, p. 134). Thus, the EU needed an agreement more than the US and an interim agreement was signed on October 6 (Agence France-Presse, 2006b). Signing an interim agreement was also suggested by the EP so that it could take into consideration the shortcomings pointed out by the PNR agreement joint review team (European Commission, 2004b) and the suggestions by the European Data Protection Supervisor (EDPS) (European Parliament, 2006). In the interim agreement however, the US made concessions so that the agreement would be suitable to both sides (*side payment*) as the DHS agreed to share data with other agencies only under certain conditions and the data retention period remained the same (Baker, 2010, p. 138).

As the negotiations restarted in 2007, the EU made new concessions regarding data sharing and the data retention period (Associated Press International, 2007). The EU was in a weak position because its main influencing method (threat of judicial chaos) did not work and the EU could not let the US sign the agreement with member states bilaterally, because then it would not have been able to include its data protection standards in the agreement (Anagnostakis, 2017, p. 134; (Agence France-Presse 2006b). During the negotiations, the US' negotiators made it clear on several occasions that some topics are a matter of national security and there will be no concessions made (*agenda control*) and threatened to withdraw from the negotiations (*threat*) (Interview EU, 2012c ref

Anagnostakis, 2017, p. 135). The US' aim was to sign a new, more flexible agreement which was not so detailed and based more on trust and principles (Anagnostakis, 2017, p. 135). In addition, the US started promoting the idea that data protection in the US and data protection in the EU offer the same level of protection regardless of differences (*persuasion*) (Federal News Service, 2007a; Federal News Service, 2007b).

In the second PNR agreement, the data retention period was extended to 15 years (EU-USA, 2007). Furthermore, PNR data could be shared with any US agency with even a slight counter-terrorism function and the list of agencies allowed to process PNR data was extended (Baker, 2006; Hailbronner *et. al.*, 2008, p. 191). Since the US promoted the idea of an equal level of data protection, a text emphasizing the similar approach to data protection was added to the preamble of the agreement (EU-USA, 2007). This showed that the EU was unable to force its data protection standards on the US.

The Lisbon Treaty which entered into force on 1 December 2009 increased the power of the EP and any new agreements would have needed the EP's approval (Anagnostakis, 2017, p. 137). 2007). By the time the Lisbon Treaty entered into force, the 2007 PNR agreement had not been ratified in all the EU member states and therefore the EP demanded that a new agreement is signed with better consideration of the EP's demands (Anagnostakis, 2017, p. 137). The EP's opinion was that a new agreement must be in accordance with the EU's data protection standards and using API (Advanced Passenger Information) data as an alternative to PNR should be considered because it's less intrusive regarding a person's privacy (European Parliament, 2011). Furthermore, the EP demanded that the processing of data would only be allowed on a certain case basis and that PNR data will not be used for data mining, otherwise the EP would not give its approval (*threat*) (European Parliament, 2011).

The third agreement was reached in 2011 and the EP gave its approval in April 2012 (Anagnostakis, 2017, p. 115). The US was not interested in a new agreement, but eventually agreed to negotiate on the condition that the new agreement would not decrease the PNR agreement's operational effectiveness and additions regarding security would be made (States News Service, 2011a ref Anagnostakis, 2017, p. 136). As in the previous negotiations, the US threatened withdrawing from the negotiations

(*threat*), which decreased the EU's power (Interview EU, 2012a ref Anagnostakis, 2017, p. 137). In addition, the US linked PNR data sharing to the visa waiver program to ensure support from the EU member states (*promise*) (Anagnostakis, 2017, p. 137). However, the US made concessions because the new agreement had to be acceptable to the EP (*side payment*) (Interview US, 2012d; Interview EU, 2012c ref Anagnostakis, 2017, p. 137). In February 2010, the EP had rejected the US-EU financial data sharing agreement, and this was shocking to the US (Europolitics, 2010b ref Anagnostakis, 2017, p. 136). That kind of power demonstration by the EP showed to the US that the EP is willing to reject the agreement, and this strengthened the EU's position in the negotiations. As during the previous negotiations, the EP demanded that the new agreement was in accordance with the EU's data protection standards and that data mining was excluded (European Parliament, 2012).

The US started lobbying the members of the EP and member states (*persuasion*), which was simplified by the fact that in the EP elections in 2009, right wing conservatives who are traditionally US-friendly gained more seats in the EP (Agence France-Presse, 2010; Europolitics, 2010a ref Anagnostakis, 2017, p. 136; Federal News Service, 2011a). Furthermore, the US offered the visa waiver program to the member states who were willing to cooperate (*side payment*) (European Report, 2007b ref Anagnostakis, 2017, p. 136). This worried some members of the EP that if they vote against the PNR agreement, it would harm their home country's chances to get the visa waiver program (Europolitics, 2010b ref Anagnostakis, 2017, p. 136; Europolitics, 2011 ref Anagnostakis, 2017, p. 136). Likewise, the US warned that if the EP should reject the PNR agreement, there will not be new negotiations (*threat*) (Pop, 2010). This would have meant that none of the EU's data protection standards would apply to the PNR data transferred to the US and therefore, the US' withdrawal from the negotiations would have harmed the EU more than the US (Anagnostakis, 2017, p. 138). Furthermore, the US promoted the idea of an equal level of data protection (*persuasion*) (Federal News Service, 2010; Federal News Service, 2011b).

Although the third PNR agreement has been criticised for unclear or inadequate data protection regulation, the EDPS considers it more in accordance with the EU's data protection standards (Fahey, 2013, p. 7; European Data Protection Supervisor, 2012). In general, the agreement

favors the US, offers a lot of room for interpretation in different legal systems (the Anglo-American and the Continental European) and freedom of action for the DHS (European Data Protection Supervisor, 2012; Fahey, 2013, p. 8). EDPS considered the conditions for using PNR data relatively vague, the data fields being collected to be too many, the data retention period to be too long and stated that the review team should be more independent and capable (European Data Protection Supervisor, 2012).

The joint review team consists of representatives of the EC and DHS, as well as data protection and law enforcement experts (European Commission, 2013). The first PNR agreement review team concluded that despite the criticism of the EU, the DHS has mostly been operating correctly (European Commission, 2004b). Although, the US did not allow the review team access to some of the logs, and some human rights violations were detected (Fahey, 2013, p. 10). However, the interim agreement review team found that the EU was granted enough information, the DHS had performed its duties and that the PNR agreement as a counter-terrorism instrument had been serving its purpose (Joint review report, 2010). In 2013, the review team stated that the DHS had been operating within the boundaries of the agreement and had even exceeded their obligations towards the EU (European Commission, 2013).

The major problems in the PNR negotiations could be summarised as follows (Byrne, 2012, pp. 7-8):

- Number of data fields being transferred – the more data fields are transferred, the bigger the risk of an innocent person being detained.
- Data retention period – the PNR data retention period is 15 years, and even though the PNR data is made anonymous, it could be linked to a person.
- Access to PNR data – while the earlier PNR agreements included a list of agencies with access to the data, the last PNR agreement does not limit the agencies with a list.
- Sharing PNR data with third countries by the US.

- The conditions for using PNR data are unclear – PNR data could be used for crimes punishable with three years of imprisonment or more, which is quite a broad definition.
- Lack of serious compensation for people who have experienced injustice because of PNR data analysis.
- There is no oversight on PNR data sharing – even though there is a joint review team, there are no enforcement mechanisms.

Strategically, the EU had a weaker position since the negotiations launched because the US threatened European air carriers with fines or not allowing them to land on US soil (Spiteri, 2004). Therefore, a hard stance by the EU could have resulted in a significant economic loss because trans-Atlantic flights and trade would have suffered (Anagnostakis, 2017, p. 123). In 2006 it became clear that the air carriers would rather accept the US' demands than follow the EU's data protection regulations (Interview EU, 2012c ref Anagnostakis, 2017, p. 123). In addition, air carriers stored their PNR data in four different databases (Sabre, Galileo, Worldspan and Amadeus) and only one of these databases (Amadeus) was physically located in the EU (Hasbrouck, 2010). Theoretically, this would have meant that even if the air carriers refused to transfer PNR data to the DHS, the US authorities could have still accessed the data (Schwartz & Maynard, 2004). Finally, as mentioned above, as an alternative to an US-EU agreement, the US could have negotiated with member states bilaterally by offering the visa waiver program in return. Therefore, the EU was in a weaker position since the beginning of the negotiations and the EU needed the agreement more than the US did. In 2016 the EU and the US signed a new treaty regarding protection of transferred data, which is known as the Umbrella agreement. However, this treaty is left out of the current study for it involves other security instruments as well.

2. THEORETICAL AND METHODOLOGICAL FRAMEWORK OF THE STUDY

2.1. NEGOTIATIONS AND COOPERATION THROUGH COMPLEX INTERDEPENDENCE AND INTEREST BASED INTERNATIONAL REGIME THEORY

The theoretical framework of this study is combined of *complex interdependence* and *interest based international regime theory*. Complex interdependence according to Keohane and Nye had three main characteristics. First, interdependent states are connected through several channels, such as, for example, power elites and international organisations or companies (Keohane & Nye, 1989, p. 24). Secondly, the relations between states consist of several issues which are not organised in a specific order, there is an absence of hierarchy among issues, foreign policy is affected by domestic policy decisions and thus, the border between foreign and domestic issues is blurred (Keohane & Nye, 1989, p. 25). Thirdly, interdependent states do not use military force against one another because it is not reasonable when addressing economic issues (Keohane & Nye, 1989, p. 25). It is fair to claim that these characteristics apply to US-EU relations.

International regime theories focus on how international institutions, agreements or other systems emerge through negotiations and cooperation (Young, 2005, pp. 92-95). The consensual definition of regimes comes from Krasner, who defined regimes as a „set of indirect principles, norms, rules and executive procedures in which the actors' expectations are close“ (Krasner, 1983, p. 2). In general, regimes are related to a specific area (Hasenclever *et al.*, 1997, p. 59), such as trade for example, or, in this study, counter-terrorism. According to Young, regimes are mostly preceded by negotiations or in his words „institutional bargaining“, which is in essence negotiations over establishing an institution (institution does not have to be a formal organisation) (Young, 1991, pp. 282-285; Young & Osherenko, 1993, pp. 225-227). Therefore, it could be said that the US-EU PNR negotiations are a process of regime formation and counter-terrorism cooperation is a regime, which is, in this study, based on the PNR agreement.

Both theories are focused on international cooperation and have a similar approach to cooperation. These theories offer a variety of tools to help analyse the negotiations. Such tools include different theoretical actions to influence the other party in negotiations. These influence tools are listed among relevant theoretical terms in Table 1. In addition, theories offer several indicators to evaluate cooperation. The theoretical methods of influencing listed in Table 1 and theoretical framework in general is the author’s interpretation for this study specifically. The US-EU counter-terrorism cooperation in this study is considered a regime based on the PNR agreement. Although the US-EU security cooperation involves other agreements, such as the Mutual Legal Assistance (MLA) agreement, Europol-US agreement or Terrorist Finance Tracking Programme (TFTP), this study focuses solely on the PNR agreement for better focus.

TABLE 1. Relevant theoretical terms (compiled by author)

Term	Meaning	Example
Agenda setting and control (method of influencing)	Pushing favored issues to or moving them in the agenda (Carroll & McCombs, 2003, p. 36).	The EU tells the US that some topics are not negotiable, hence moving them out of the agenda.
Uncertainty	Main obstacle to international cooperation (Hasenclever et al., 1997, p. 33).	The EU and the US can’t reach an agreement regarding transfer of passengers’ data because the EU considers the US data protection regulation inadequate.
Side payments (method of influencing)	A concession or giving something to foster cooperation (Hasenclever et al., 1997, p. 52).	The EU offers a reduction in trade tariffs if the US guarantees adequate level of data protection.
Promises (method of influencing)	Promises which help to reach an agreement or foster cooperation (Hasenclever et al., 1997, p. 51).	The US promises to proactively send analysed material extracted from PNR data if an agreement is reached.
Politicisation (method of influencing)	Making an issue a political issue so that it is moved up in the agenda and/or receives more attention (Keohane & Nye, 2001, p. 28).	The US links inter-agency data sharing with national security to make data sharing more important in the agenda.
Issue linkage (method of influencing)	Linking one issue to another to make the agenda more suitable (Keohane & Nye, 2001, p. 32).	The EU links data protection with the EU’s basic rights to make adequate data protection more important.

TABLE 1 CONTINUED

Persuasion (method of influencing)	Persuading the other actor that cooperation is beneficial (Hasenclever et al., 1997, p. 51).	The US persuades the EU that cooperation is mutually beneficial because processed data is being sent back to the EU.
Distribution of resources	Distribution of resources on a certain issue which is shown in an agreement (Keohane & Nye, 2001, p. 43).	Distribution of resources favours the EU because the EU achieved all its objectives in the agreement.
Regime	A set of principles, norms and procedures in which actors' expectations are similar (Krasner, 1983, p. 2), may but does not have to be based on an agreement	Western democracies form a regime, different agreements among those states foster the existing or create a new, specific regime.
Threat (method of influencing)	Threats to reduce the willingness of the other actor to withdraw from negotiations (Hasenclever et al., 1997, p. 51).	The EU tells the US that if an agreement is not signed, trans-Atlantic flights will stop and legal chaos will take place.

2.2. METHODOLOGICAL APPROACH

To achieve the aim of the study, the author has raised four research questions: (1) what are the obstacles and enablers of the US-EU counter-terrorism cooperation found in the PNR negotiations; (2) what are the similarities and differences in the security strategies with regard to transatlantic security cooperation; (3) which side dominates the US-EU counter-terrorism cooperation relations; (4) how to improve the efficiency of the US-EU counter-terrorism cooperation. The second question is included to find out whether there are fundamental differences in strategic documents regarding counter-terrorism or security cooperation. Security strategies are examined to find out if there are differences in approaching one another which might become obstacles to cooperation. Finding out which side dominates the counter-terrorism relations gives background information to draw conclusions and offer suggestions.

Research tasks were set as follows: (1) analyse the negotiation processes to determine the distribution of resources, obstacles and enablers to the cooperation; (2) analyse the selected strategies and conduct expert interviews to determine obstacles and enablers to the cooperation; (3) offer suggestions to improve the cooperation. To achieve the aim of this study,

the author conducted semi-structured expert interviews and compared security strategies using the document review method. The negotiation processes were reviewed and evaluated using the process tracing method, starting from 2004 when the first PNR agreement was signed.

The author uses the process tracing method to examine the negotiation processes. The process tracing method is used in case studies to learn about causal mechanisms which have led to a certain outcome and make generalised inferences about similar causal mechanisms (Beach, 2017, p. 1). To examine the processes, one has to unpack the causal process and look for traces of action by the actors involved (Beach, 2017, p. 5), which is done in this study by describing the negotiations. Such traces of actions are found in official documents, studies by other authors, international agreements, legislation or media for example. The parts of mechanisms are defined by the actors involved whose actions evoke changes in the outcomes (Beach, 2017, p. 6). In addition, one has to be aware of contextual conditions which are relevant aspects of the background which affect the outcome (Falleti & Lynch, 2009, p. 1152). This systems approach to process tracing has been used in social sciences by Glennan (1996, 2002), Beach & Pedersen (2013, 2016) and many others. The possible actions of actors are described above as methods of influencing and the author looks in the empiric materials for traces of such actions. Possible actions are presented in the Table 1 as theoretical methods of influencing.

Comparison of the results from process tracing, security strategy analysis and expert interviews show whether the obstacles and enablers are similar or not and therefore validate one another. Determining the distribution of resources shows which side dominates the counter-terrorism relations and therefore helps to understand the cooperation relationship and to find obstacles or enablers. For example, when one state is dominating but makes concessions in the negotiations, that state reduces the obstacles to reaching an agreement and therefore this action works as an enabler to cooperation. Cooperation is when actors adjust their behavior to the preferences of others, through a process of policy coordination (Keohane, 1984, p. 52). Cooperation efficiency is hence shown by how well two actors can adjust their behavior to the preferences of others.

Firstly, the author will compare the security strategies to find fundamental differences regarding trans-Atlantic security cooperation as

obstacles to the cooperation or similarities to determine enablers of the cooperation. Secondly, the author will examine the negotiations presented in the negotiation processes description to find out which methods of influencing were used, how much they were used and how did it change the course of reaching an agreement or what kind of distribution of resources does it indicate. Thirdly, the author will analyse the expert interview transcriptions qualitatively to present the conclusions, main findings and viewpoints of the interviewed experts. Finally, the author will combine the findings to make final conclusions and to achieve the aim of the article.

3. DIFFERENCES AND SIMILARITIES INDICATED BY SECURITY STRATEGIES

Qualitative analysis of the security strategies makes it possible to see whether the US and EU have a different approach on trans-Atlantic security cooperation. A different approach on the strategic level might be an obstacle to cooperation and a similar approach might be an enabler. In this study, the author looks for differences and similarities regarding trans-Atlantic security cooperation in relevant strategies.

From the US strategies, the author selected the National Security Strategies (NSS) of 2002, 2010 and 2017 and Counter-Terrorism Strategy (CTS) from 2006 (United States, 2002; United States, 2006; United States, 2010; United States, 2017). From the EU strategies, the author selected the EU Security Strategy from 2003, CTS from 2005, Internal Security Strategy from 2010 and EU Foreign and Security Policy from 2016 (EEAS, 2003; Council of the European Union, 2005b; Justice and Home Affairs Council, 2010; EEAS, 2016). The author points out that the EU is a constantly changing international organisation and therefore over time the strategies have changed in their form. Whereas the NSS has stayed pretty much the same during those years. The author coded segments which directly concerned trans-Atlantic security cooperation.

TABLE 2. Coded segments in strategies (compiled by author).

Document	Coded segments
USA National Security Strategy 2002	7
EU Security Strategy 2003	3
EU CT Strategy 2005	1
USA CT Strategy 2006	1
EU Internal Security Strategy 2010	0
USA National Security Strategy 2010	4
EU Global Strategy for Foreign and Security Policy 2016	6
USA National Security Strategy 2017	4

In general, the strategies did not show any differences in the approach to trans-Atlantic security cooperation. Cooperation has been considered important and there is a will to strengthen it further on both sides. It seems that the EU aims to become a more equal and global security actor and that the US is more emphasized on trade relations. There are no fundamental differences in the security strategies regarding trans-Atlantic security cooperation and both sides consider each other very important partners in counter-terrorism cooperation. (Alev, 2019, p. 54-56)

3.1. THE METHODS OF INFLUENCING USED BY BOTH SIDES

The primary goals of the actors found in the description of the negotiations could be summarised as follows:

- The US aims: to guarantee free inter-agency data transfers and data processing; not to make any changes in the US legislation; to base the agreement on shared principles and mutual trust.
- The EU aims: to guarantee as much EU data protection as possible on the transferred data.

TABLE 3. The methods of influencing used by the US and the EU during the negotiations (compiled by author).

Method of influencing		US	EU
Issue linkage	Politicisation	1	1
	Promises	1	-
	Threats	5	5
Side payments		2	-
Persuasion		2	-
Agenda setting and control		1	-
Total		10	6

The traces of the processes are found in the description of the negotiation processes. The theoretical methods of influencing allow us to determine

which side is dominant and/or more active. Determining the dominant side helps to understand the cooperation because the dominant side might be determinant on reaching the agreement. When the dominant side makes more concessions than it should, its actions might be an enabler of the cooperation. Table 3 shows that the US used more methods of influencing than the EU and the US used all the theoretical methods at least once. This might indicate that the distribution of resources favoured the US. The EU on the other hand, only used politicisation and threats.

The least influencing methods were used during the 2004 agreement negotiations. That might be due to the urgent need for an agreement and the fact that the EU's threat tactic worked. The most influencing methods were used during the negotiations for the interim and the second agreement. One might presume that this was caused by the EU's strategically weak position in the second negotiations. The EU's position was weak because the alternative for the US-EU agreement would have been bilateral agreements between the US and EU member states, which would have been unacceptable to the EU as a global security actor. On the other hand, it is likely that the US would have still preferred negotiating with the EU since then it would not have been necessary to negotiate separate agreements with each of the member states. (Alev, 2019, p. 57, 61)

The EU's threat tactics didn't work after the first negotiations because member states and air carriers were willing to cooperate with the US regarding PNR data transfers. The US used agenda control and persuasion during the 2007 negotiations, which proved to be successful because some topics were pushed off the agenda and the EU agreed that the approach to data protection was similar. It's safe to say that the 2007 agreement was the most in favor of the US because it has received the most criticism from actors inside the EU and the EU's position was the weakest of the three negotiations. In 2011, the EU's position was strengthened by the EP and its right to veto the agreement and this led to an agreement which favored the EU more than the previous agreement. The EU's position was weakened by the fragmentation inside the EU. By the 2015 joint review however, it seems that both sides were happy with the agreement and that it works well as a counter-terrorism instrument. In conclusion, it could be said that the US achieved more of its aims than

the EU. The distribution of resources favored the US because it achieved more of its aims than the EU. (Alev, 2019, p. 57, 61)

Process tracing suggests that an obstacle to the cooperation was primarily the difference in data protection because most of the issues during negotiations were related to data protection. The fact that the EU did not trust its citizens' personal data to be transferred to the US, suggests uncertainty – which was brought out as the main obstacle to cooperation by Keohane. Therefore, a regime was created (PNR agreement was signed) to reduce the uncertainty and increase trust in that matter. Besides, that points to the productive effect of uncertainty. As an enabler of cooperation, side payments by the US could be brought out because they led to an agreement. Furthermore, initiative shown by the US in the form of a more active use of influencing methods, could be considered an enabler to the cooperation. A learning process which occurred in the EU by understanding the possible benefits of the EU's PNR system, could also be considered an enabler of cooperation. (Alev, 2019, p. 57, 61)

3.2. EXPERT ASSESSMENTS ON COUNTER-TERRORISM COOPERATION

The author conducted seven semi-structured expert interviews. The interviewees were two data protection experts, one law enforcement expert and four experts from the negotiations and political field. The interviews concluded that mutual initiative is as an enabler of cooperation. In addition, there is a general and mutual consensus between the US and the EU regarding counter-terrorism. The experts considered the current PNR agreement and system as optimal and reasonable. Reopening the negotiations was not supported by any of the interviewees, but it might become necessary in the future as technology and the security environment are evolving. (Alev, 2019, p. 69)

The EU's data protection standards were considered as the main obstacle to the cooperation because the EU demanded that the US followed the EU's standards as much as possible. Different legal systems were also brought out as an obstacle. Although, most of the interviewees did not name uncertainty as an obstacle, all of them expressed fears or distrust

regarding the data protection issue in PNR negotiations. This supports the hypothesis that the main obstacle to cooperation was uncertainty caused by different data protection standards, since data protection was named as the main obstacle. Some of the interviewed experts brought out the EU's learning process, as over time the EU understood the potential benefits of the PNR system and thus, the learning process could be considered as an enabler of cooperation. The interviews support the theoretical claim that uncertainty may have a productive influence as it pushes two actors to a better cooperation to reduce the uncertainty. The interviewees brought out the EU's fragmentation as an obstacle as it weakened the EU's position in the negotiations. However, all the interviewees considered the fragmentation inevitable. (Alev, 2019, p. 67-70)

4. CONCLUSIONS AND RECOMMENDATIONS

The first research question was provided an answer from process tracing and expert interviews. Process tracing and interviews showed that the main obstacles to cooperation were different data protection standards, because most of the issues in the negotiations were related to data protection. Therefore, it was uncertainty on the EU side because the US' data protection was deemed inadequate. The main enablers of cooperation were concessions and side payments by the US and a mutual initiative to reach an agreement.

The second research question was provided an answer by the comparison of security strategies. There were no fundamental differences regarding trans-Atlantic counter-terrorism cooperation. In general, the EU and the US see each other as core partners combating different security challenges. Therefore, there were no clear discrepancies in security strategies.

The third research question was provided an answer from process tracing and expert interviews. The EU's position was weaker because their threat tactics did not work after the first negotiations and air carriers and member states were willing to cooperate with the US in the absence of an agreement. Inclusion of the EP after the Lisbon Treaty strengthened the EU's position because the US was forced to make the agreement suitable to the EP. The US achieved its aims more than the EU. The EU did not have much to bargain with in the negotiations, which is shown by the use of the influencing methods. Therefore, the distribution of resources favored the US and the US is the dominant actor in the trans-Atlantic counter-terrorism cooperation.

The fourth research question is provided an answer by the results of process tracing and expert interviews. Improvements in this case mean reducing the obstacles and enhancing the enablers of cooperation. Since one of the named obstacles was the fragmentation inside the EU, counter-terrorism cooperation could be improved by better coordination inside the EU, which would enable the EU to set aims that would not be harmed by the EU's fragmentation. Additionally, trans-Atlantic

counter-terrorism cooperation could be improved by changing the EU’s data protection legislation to become more compatible with the one in the US, as it would help to reach future agreements faster. However, it is highly unlikely, and it requires initiative from the EP, EC and member states. Cooperation could also be improved by making side payments, which do not have to be in the same field or in the same negotiations. In addition, effective communication inside the EU and educating different interest groups could fasten the learning process and therefore make reaching an agreement easier.

TABEL 4. Obstacles and enablers of cooperation with suggestions (compiled by author).

Obstacle of cooperation	Suggestion
Different data protection standards	Changing data protection regulation to be more compatible
EU’s fragmentation	More effective coordination among member states, the EP and EC
Uncertainty	Forming regimes (frameworks and agreements)
Enabler of cooperation	Suggestion
Mutual initiative	Sustaining effective partnership
Side payments	Use more side payments to reach an agreement
Learning process	Educating interest groups, effective communication

This paper’s aim was to determine the obstacles and enablers of the US-EU counter-terrorism cooperation by analysing PNR negotiations and offer suggestions to improve the cooperation. The process tracing method showed that the distribution of resources favored the US and data protection became the central issue in the negotiations. The EU’s weaker position in the negotiations was illustrated by ineffective use of influencing methods and internal fragmentation. However, the EP entering the negotiations strengthened the EU’s position. Uncertainty regarding data transfers became the main obstacle to reaching an agreement.

The US used more influencing methods than the EU and therefore was the more active side and this supports the claim that the US was in a stronger position. The US was the dominant side because it was in

a stronger position in the negotiations. Side payments by the US can be considered as an enabler of the cooperation since it made reaching an agreement easier. The analysis of security strategies did not show a fundamental difference in approach to trans-Atlantic counter-terrorism cooperation, but showed that both actors see each other as core partners in the fight against terrorism. This claim was supported by interviewed experts who stated that there is a fundamental consensus regarding counter-terrorism cooperation. The interviewees also concluded that the EU's data protection became an obstacle in the negotiations. Both the interviews and process tracing support the hypothesis that uncertainty caused by different data protection standards was the main obstacle to the cooperation.

Since uncertainty became the main obstacle to the cooperation and uncertainty is reduced by forming new regimes (agreements, frames), cooperation would be improved by different agreements in specific fields that would make different data protection systems more compatible. The fragmentation inside the EU could be reduced by better coordination among member states, the EP and EC to maximise the common ground. As mentioned above, this article could prove useful to officials and scholars dealing with US-EU security cooperation, international negotiations or cooperation instruments related to data protection. The findings of this article could be used by the EU officials preparing for negotiations in similar fields to security cooperation or dealing with negotiations over a certain instrument with similar characteristics as the PNR negotiations. Since the methods of influencing in international negotiations should be the same as presented in this study, the findings and methodology in this study could be used to analyse cooperation and negotiations by scholars or officials. These findings could also be used by officials from the EU member states to influence the policies and processes to move in a preferred direction.

In further studies, other security cooperation instruments (such as MLA or TFTP) and their processes could be studied using similar methodology. This would help build a bigger picture of the US-EU security or counter-terrorism cooperation and its dynamic. In addition, the presented methods of influencing or the use of such methods could be studied as it helps to better understand and use these methods in negotiations. The findings of this article could be used

in comparison to these potential future studies. Furthermore, the recently adopted General Data Protection Regulation (GDPR) of the EU could be involved in such studies to determine the effect it has on trans-Atlantic security cooperation and data transferring.

Contact:

Rain Alev

E-mail: rain95.alev@gmail.com

REFERENCES AND SOURCES

- Agence France-Presse, 2006a. US sends air passenger-data draft agreement to EU. *Agence France-Presse*, October 1.
- Agence France-Presse, 2006b. EU, US Clinch air passenger data deal. *Agence France-Presse*, October 6.
- Agence France-Presse, 2010. US seeks to persuade EU deputies to back terror data deal. *Agence France-Presse*, March 8.
- Alev, R., 2019. *Euroopa Liidu ja Ameerika Ühendriikide terrorismivastase koostöö takistused ja võimaldajad lennureisijate broneeringu infosüsteemi (PNR) rakendamise näitel. Master's thesis*. Tallinn: Estonian Academy of Security Sciences. [Online source] Available from: https://digiriitul.sisekaitse.ee/bitstream/handle/123456789/2221/2019_Alev%20.pdf?sequence=1&isAllowed=y [Accessed 25.09.2019].
- Anagnostakis, D., 2017. *EU-US Cooperation on Internal Security: Building a Transatlantic Regime*. Oxon: Routledge.
- Archick, K., 2013. U.S.-EU Cooperation Against Terrorism. *Current Politics & Economics of Europe*, 24(1/2), 169-201, pp. 169-201.
- Associated Press International, 2006a. EU justice, interior ministers study plans to salvage trans-Atlantic passenger data deal with US. *Associated Press International*, June 2.
- Associated Press International, 2006b. EU likely to close deal with Washington on new anti-terror passenger data. *Associated Press International*, September 27.
- Associated Press International, 2007. EU ambassadors back deal with US on sharing air passenger data. *Associated Press International*, June 29.
- Baker, S., 2006. *Letter to the Council Presidency and the Commission from the Department of Homeland Security (DHS) of the United States of America, concerning the interpretation of certain provisions of the undertakings issued by DHS on 11 MAY 2004 in connection with the transfer by air carriers of passenger name record (PNR) data. Letter*. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52006XG1027\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52006XG1027(01)) [Accessed 19.02.2019].
- Baker, S., 2010. *Skating on Stilts: Why We Aren't Stopping Tomorrow's Terrorism*. Stanford: Hoover Institution Press.
- Beach, D., Pedersen, R., 2013. *Process-tracing methods: Foundations and guidelines*. Ann Arbor: University of Michigan Press.
- Beach, D., Pedersen, R., 2016. *Causal case studies: Comparing, matching and tracing*. Ann Arbor: University of Michigan Press.

- Beach, D., 2017. Process-Tracing Methods in Social Science. *Oxford Research Encyclopedia of Politics*. 25 January.
- Buşe, M., 2014. Terrorism – a current threat to European security. *Strategic Impact*, 50(1), pp. 45-54.
- Byrne, A., 2012. *Building the Transatlantic Area of Freedom, Security and Justice. The Case of the Passenger Name Record Agreements. Presentation*. Rome, Istituto Affari Internazionali 15 March 2012 seminar: The Challenges in Creating a Transatlantic Area of Freedom, Security and Justice.
- Carroll, C. E., McCombs, M., 2003. Agenda-setting Effects of Business News on the Public's Images and Opinions about Major Corporations. *Corporate Reputation Review*. 6(1), pp. 36-46.
- Casagran, C., 2015. The Future EU PNR System: Will Passenger Data be Protected?. *European Journal of Crime, Criminal Law & Criminal Justice*. 23(3). pp. 241-257.
- Council of the European Union, 2002. *Council Framework Decision of 13 June 2002 on combating terrorism*. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002F0475> [Accessed 31.08.2019].
- Council of the European Union, 2005a. *The Hague Programme: strengthening freedom, security and justice in the European Union. Strategy*. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52005XG0303\(01\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52005XG0303(01)) [Accessed 31.08.2019].
- Council of the European Union, 2005b. *The European Union Counter-Terrorism Strategy*. Brussels: Council of the European Union. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133275> [Accessed 31.08.2019].
- De Witte, B., 2008. Too much constitutional law in the European Union's Foreign Relations? Book: Cremona, M., De Witte, B., ed. *EU Foreign Relations Law: Constitutional Fundamentals*. Oxford: Hart Publishing.
- Eurobarometer, 2017. *Europeans' attitudes towards security. Survey*. [Online source] Available from: https://data.europa.eu/euodp/data/dataset/S1569_87_4_464B_ENG [Accessed 25.09.2019].
- European External Action Service (EEAS), 2003. *European Security Strategy - A Secure Europe in a Better World*. Brussels: European Council. [Online source] Available from: <https://europa.eu/globalstrategy/en/european-security-strategy-secure-europe-better-world> [Accessed 31.08.2019].
- European External Action Service (EEAS), 2016. *Shared Vision, Common Action: A Stronger Europe*. Brussels: Council of the European Union. [Online source] Available from: <https://europa.eu/globalstrategy/en/shared-vision-common-action-stronger-europe> [Accessed 31.08.2019].

- European Commission, 2004b. *2004/535/EC: Commission Decision of 14 May 2004 on the adequate protection of personal data contained in the Passenger Name Record of air passengers transferred to the United States' Bureau of Customs and Border Protection*. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004D0535> [Accessed 31.08.2019].
- European Commission, 2013. *REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the joint review of the implementation of the Agreement between the European Union and the United States of America on the processing and transfer of passenger name records to the United States Department of Homeland Security*. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52013DC0844> [Accessed 31.08.2019].
- European Court of Justice, 2017. *The Court declares that the agreement envisaged between the European union and Canada on the transfer of Passenger Name Record data may not be concluded in its current form. Assessment*. [Online source] Available from: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=183140&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=13108693> [Accessed 31.08.2019].
- European Data Protection Supervisor, 2012. *Opinion of the European Data Protection Supervisor on the proposal for a Council Decision on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security. Assessment*. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012XX0209\(03\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012XX0209(03)) [Accessed 31.08.2019].
- European Parliament, 2006. *European Parliament recommendation to the Council on the negotiations for an agreement with the United States of America on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime (2006/2193(INI))*. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52006IP0354> [Accessed 31.08.2019].
- European Parliament, 2011. *European Parliament resolution of 5 May 2010 on the launch of negotiations for Passenger Name Record (PNR) agreements with the United States, Australia and Canada*. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52010IP0144> [Accessed 31.08.2019].
- European Parliament, 2012. *EU external strategy on Passenger Name Record (PNR) European Parliament resolution of 11 November 2010 on the global approach to transfers of passenger name record (PNR) data to third countries, and on the recommendations from the Commission to the Council*

to authorise the opening of negotiations between the European Union and Australia, Canada and the United States. [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:52010IP0397> [Accessed 31.08.2019].

European Parliament and the Council, 1995. *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.* Directive [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31995L0046> [Accessed 31.08.2019].

European Parliament and the Council, 2017. *Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.* [Online source] Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017L0541> [Accessed 25.09.2019].

EUROPOL, 2017. *European Union Terrorism Situation and Trend Report TE-SAT.* [Online source] Available from: <https://www.europol.europa.eu/activities-services/main-reports/eu-terrorism-situation-and-trend-report> [Accessed 25.09.2019].

EU-USA, 2004. *Agreement between the European Community and the United States of America on the processing and transfer of PNR data by air carriers to the United States Department of Homeland Security, Bureau of Customs and Border Protection.* Treaty. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549469893043&uri=CELEX:22004A0520\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549469893043&uri=CELEX:22004A0520(01)) [Accessed 31.08.2019].

EU-USA, 2006. *Agreement between the European Union and the United States of America on the processing and transfer of passenger name record (PNR) data by air carriers to the United States Department of Homeland Security.* Treaty. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549469893043&uri=CELEX:22006A1027\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549469893043&uri=CELEX:22006A1027(01)) [Accessed 31.08.2019].

EU-USA, 2007. *Agreement between the European Union and the United States of America on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security (DHS).* Treaty. [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:22007A0804\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1549917977001&uri=CELEX:22007A0804(01)) [Accessed 31.08.2019].

EU-USA, 2012. *Agreement between the United States of America and the European Union on the use and transfer of passenger name records to the United States Department of Homeland Security.* Treaty. [Online

- source] Available from: [https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:22012A0811\(01\)](https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:22012A0811(01)) [Accessed 31.08.2019].
- EU-USA, 2016. *Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences. Treaty.* [Online source] Available from: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:22016A1210\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:22016A1210(01)) [Accessed 31.08.2019].
- Fahey, E, 2013. Law and Governance as Checks and Balances in Transatlantic Security: Redress and Remedies in EU-US Passenger Name Records and the Terrorist Finance Tracking Program. *Yearbook of European Law*, 32(1), pp. 368-388.
- Falletti, T., Lynch, J., 2009. Context and causal mechanisms in political analysis. *Comparative Political Studies*, 42, pp. 1143-1166.
- Federal News Service, 2007a. Remarks by Secretary Michael Chertoff, Department of Homeland Security to the Johns Hopkins Paul N. Nitze School of Advanced International Studies. *Federal News Service*, May 3.
- Federal News Service, 2007b. Remarks by Secretary of Homeland Security Michael Chertoff to the European Parliament. *Federal News Service*, May 15.
- Federal News Service, 2010. Atlantic Council of the United States (ACUS) Meeting; Subject: "Transatlantic Security, Data Sharing and Privacy Protections: A US-EU Dialogue". *Federal News Service*, July 8.
- Federal News Service, 2011a. Hearing of the Europe and Eurasia Subcommittee of the House Foreign Affairs Committee; Subject: Overview of Security in Europe and Eurasia. *Federal News Service*, May 5.
- Federal News Service, 2011b. Prepared Remarks of Attorney General Eric Holder to the European Parliament's Committee on Civil Liberties, Justice, And Home Affairs Location: Brussels, Belgium. *Federal News Service*, September 20.
- Gardner, H., Stefanova, R., 2001. *The New Transatlantic Agenda: Facing the Challenges of Global Governance.* Aldershot: Ashgate.
- Glennan, S., 1996. Mechanisms and the nature of causation. *Erkenntnis*, 44(1), pp. 49-71.
- Glennan, S., 2002. Rethinking mechanistic explanation. *Philosophy of Science*, 69, pp. 342-353.
- Guild, E., 2007. Inquiry into the EU-US Passenger Name Record Agreement. *CEPS Policy brief*, 125, pp. 1-4.
- Hailbronner, K., Papakonstantinou, V., Kau, M., 2008. The Agreement on Passenger-Data and the EU-US Cooperation in Data Communication. *International Migration*, 46(2), pp. 187-197.

- Hasbrouck, E., 2010. *Testimony to Members of the European Parliament*. April 8. [Online source] Available from: <https://hasbrouck.org/blog/archives/001855.html> [Accessed 31.08.2019].
- International Herald Tribune, 2006a. EU and US plan deal to share traveller data; Wide-ranging accord expected in weeks. *International Herald Tribune*, September 1.
- Joined cases C-317/04 ja C-318/04*. (2006) ECLI:EU:C:2006:346.
- Joint review report., 2010. *Report on the joint review of the implementation of the Agreement between the EU and US on the processing and transfer of Passenger Name Record data by air carriers to the US Department of Homeland Security, 8-9 February 2010*. [Online source] Available from: https://www.dhs.gov/xlibrary/assets/privacy/privacy_eu_pnr_aircarriers_feb_2010.pdf [Accessed 31.08.2019].
- Justice and Home Affairs Council. *Internal Security strategy for the European Union – Towards a European security model*. Brussels: Council of the European Union. [Online source] Available from: <https://www.consilium.europa.eu/en/documents-publications/publications/internal-security-strategy-european-union-towards-european-security-model/> [Accessed 31.08.2019].
- Keohane, R., 1983. The Demand for International Regimes. Book: S. Krasner, ed. *International Regimes*. Ithaca: Cornell University Press.
- Keohane, R., 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*, Princeton University Press.
- Keohane, R., Nye, Joseph S., 1989. *Power and Interdependence*. Harvard University: Harper Collins Publishers.
- Keohane, R., Nye, Joseph S., 2001. *Power and Interdependence*. New York: Longman.
- Krasner, S., 1983. Structural Causes and Regime Consequences: Regimes as Intervening Variables. Book: S. Krasner, ed. *International Regimes*, Ithaca: Cornell University Press.
- Makaveckaite, I., 2016. *European Passenger Name Record through the Multiple Streams Framework: The Power of Streams in the Policy Making*. Master's thesis. Leiden: Leiden University.
- Nino, M., 2010. The protection of personal data in the fight against terrorism. New perspectives of PNR European Union instruments in the light of the Treaty of Lisbon. *Utrecht Law Review*, 6(1), pp. 62-85.
- Pop, V., 2010. Reding slams US over data privacy. *EUobserver*, December 21. [Online source] Available from: <https://euobserver.com/news/31555> [Accessed 31.08.2019].

- Poushter, J., Manevich, D., 2017. Globally, People Point to ISIS and Climate Change as Leading Security Threats. *Pew Research Center*. [Online source] Available from: <http://www.pewglobal.org/2017/08/01/globally-people-point-to-isis-and-climate-change-as-leading-security-threats/> [Accessed 25.09.2019].
- Schofield, A., Tardy, M., 2006. Court Scraps European Union-U.S. Passenger Data Agreement. *Aviation Daily*, May 31. [Online source] Available from: <http://aviationweek.com/awin/court-scraps-european-union-us-passenger-data-agreement> [Accessed 31.08.2019].
- Schwartz, J., Maynard, M., 2004. Airlines Gave F.B.I. Millions of Records on Travelers After 9/11. *New York Times*, May 1. [Online source] Available from: <https://www.nytimes.com/2004/05/01/us/airlines-gave-fbi-millions-of-records-on-travelers-after-9-11.html> [Accessed 31.08.2019].
- Spence, D., 2008. Introduction: International Terrorism – the Quest for a Coherent EU Response. Book: D. Spence, ed. *The European Union and Terrorism*. London: John Harper.
- Spiteri, S., 2004. EU court asked to rule on EU-US data agreement. *EUobserver*, April 21. [Online source] Available from: <https://euobserver.com/justice/15275> [31.08.2019].
- The Independent, 2006. Court stops US getting passengers' details. *The Independent*, May 31.
- UK House of Lords, 2007. *The EU/US Passenger Name Record (PNR) Agreement*. *Twenty-First Report*, HL Paper 108(5), June 5.
- United States, 2002. *The National Security Strategy of the United States of America*. Washington: President of the U.S. [Online source] Available from: <https://history.defense.gov/historical-sources/national-security-strategy/> [Accessed 31.08.2019].
- United States, 2006. *National Strategy for Combating Terrorism*. Washington: The White House. [Online source] Available from: <https://2001-2009.state.gov/s/ct/rls/wh/71803.htm> [Accessed 31.08.2019].
- United States, 2010. *The National Security Strategy*. Washington: President of the U.S. [Online source] Available from: <https://www.hsdl.org/?abstract&did=24251> [Accessed 31.08.2019].
- United States, 2017. *The National Security Strategy of the United States of America*. Washington: President of the U.S. [Online source] Available from: <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf> [Accessed 31.08.2019].
- US Cable, 2006a. UK Passenger Name Recognition Contingency Planning. *Wikileaks*, July 12. 2006. [Online source] Available from: <http://wikileaks.redfoxcenter.org/cable/2006/07/06LONDON5097.html> [Accessed 31.08.2019].

- US Cable, 2006b. Czech Republic: Positive on PNR Collection. *Wikileaks*, July 14. [Online source] Available from: <http://wikileaks.redfoxcenter.org/cable/2006/07/06PRAGUE804.html> [Accessed 31.08.2019].
- US Cable, 2006c. Air France on PNR, No-Fly and CNIL. *Wikileaks*, September 6. [Online source] Available from: <http://wikileaks.redfoxcenter.org/cable/2006/09/06PARIS5958.html> [Accessed 31.08.2019].
- US Cable, 2006d. DHS Counselor Resenzweig Pushes for CT progress in Berlin. *Wikileaks*, September 12. [Online source] Available from: <http://wikileaks.redfoxcenter.org/cable/2006/09/06BERLIN2654.html> [Accessed 31.08.2019].
- US Cable, 2006e. Passenger Data Sharing Views as Old Agreement Expires. *Wikileaks*, September 27. [Online source] Available from: <http://wikileaks.redfoxcenter.org/cable/2006/09/06ROME2724.html> [Accessed 31.08.2019].
- US Fed News, 2006. Privacy Rights Need to be Respected – Even in Police Cooperation. *US Fed News*, September 27.
- Wolff, S., 2009. The Mediterranean Dimension of EU Counterterrorism. *Journal of European Integration*, 31(1), pp. 137-156.
- Yano, M. J., 2010. Come Fly the (Unfriendly?) Skies: Negotiating Passenger Name Record Agreements Between the United States and European Union. *I/S: A Journal of Law and Policy for the Information Society*. 5(3), pp. 479-505.
- Young, O., 1991. Political Leadership and Regime Formation: On the Development of Institutions in International Society. *International Organization*. 45, pp. 281-308.
- Young, O., 2005. Regime theory and the quest for global governance. Book: A. Ba, M. Hoffmann, ed. *Contending Perspectives on Global Governance*. Abingdon: Routledge.
- Young, O., Osherenko, G., 1993. International Regime Formation: Findings, Research Priorities, and Applications. Book: O. Young, G. Osherenko, ed. *Polar Politics: Creating International Environmental Regimes*. Ithaca: Cornell University Press.