

EU counterterrorism strategy: value added or chimera?

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Europe did not wake up to terrorism on 9/11. Terrorism is solidly entrenched in Europe's past. Throughout its history, many of its member states have experienced a wide variety of terrorism—left-wing, right-wing, separatist, social and religious, domestic as well as international. The main characteristic of the counterterrorism approach in Europe has been to consider terrorism a crime, to be tackled through criminal law. Counterterrorism has long been confined within national borders, aside from sporadic ad hoc cooperation in specific cross-border dossiers.

In the early 1970s, terrorism slowly entered the realm of the European integration process.¹ The first organized platform for European counterterrorist cooperation was TREVI (Terrorisme, Radicalisme, Extrémisme et Violence Internationale), created in 1976 by the EU ministers of justice and interior/home affairs.² Under this intergovernmental umbrella, a working group composed of police and interior officials of the then ten European Community member states dealt with the topics of terrorism, immigration and asylum. The first tentative common threats assessments were produced, topics such as DNA genetic fingerprinting were broached and gradually the scope of the work grew. The Schengen Agreement of 1985, abolishing all internal borders between participating states in favour of a single external border, though not specifically dealing with terrorism, entailed stepped-up police, judicial and border cooperation throughout Europe.

Under the 1992 Maastricht Treaty the TREVI working groups were reorganized under the so-called 'third pillar' of the EU that dealt with Justice and Home Affairs (JHA). A new organization was created, the law enforcement agency Europol, which answered the calls of a number of European police chiefs for the creation of a European equivalent of the US Federal Bureau of Investigation. Europol

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¹ Franklin Dehousse and Annabelle Littoz-Monnet, 'L'Union européenne face au défi du terrorisme', *Studia Diplomatica* 57: 4–5, 2004, pp. 5–95.

² Tony Bunyan, 'Trevi, Europol and the European state', in Tony Bunyan, *Statewatching the new Europe* (London: Statewatch, 1993).

came into being in order to facilitate the exchange and coordination of criminal intelligence, in particular that relating to international crime.

But results were meagre. Information-sharing proved to be a real stumbling block. Especially in terrorism-related fields, member states continued to prefer informal arrangements, such as the Club of Berne, whose origins date back to the mid-1960s, where the heads of the European security agencies have the opportunity to discuss security matters. Successive treaties broadened the initial Maastricht dispositions somewhat. In 1999 the European Council in Tampere (Finland) adopted a broad programme for cooperation in the realm of police and justice matters, including terrorism. Tampere was considered the ultimate frontier in the member states' willingness to cooperate in these fields. Many more suggestions for enhanced cooperation were tabled, but none gained sufficient traction to be implemented.

An event-driven counterterrorism agenda

As in the United States, 9/11 was a watershed for counterterrorism in Europe. The attacks of September 2001, followed by those of 2004 in Madrid and 2005 in London, resulted in a flurry of decisions, initiatives and mechanisms aimed at enhancing Europe's capabilities in fighting terrorism in all its aspects. The dynamics behind EU counterterrorism can be compared to successive shock waves, propelled by major attacks, but gradually winding down once the sense of urgency had faded away. This resulted in a patchwork of measures and mechanisms, often elaborated in great haste,³ without an overall design.

This event-driven elaboration of an EU counterterrorism strategy mirrored the similarly intermittent development of national counterterrorism strategies in the US and in individual EU member states. But in the case of the EU this ad hoc process was made even more complex by the intricate institutional architecture of the Union and by differences in threat perception and widely varying cultural and political traditions within Europe. It thus took several years to develop an overall European counterterrorism strategy; and even after its formal adoption in 2005, large chunks of counterterrorism endeavours in Europe remain principally within the confines of national decision-making.

The 9/11 attacks undoubtedly brought the EU into uncharted territory, boosting existing cooperation and furthering political integration—especially in JHA—to a degree few would have imagined some years earlier.⁴ The attacks opened a window of opportunity to push forward stalled legislative proposals of the Tampere Programme, in order to harmonize national laws in the realm of internal security, where national prerogatives had always been the bedrock of all arrangements. Within two weeks of the attacks, a comprehensive EU Action Plan to Fight Terrorism was adopted. This led in the following months to a number

³ Note by the EU Counter-Terrorism Coordinator to the Council, 15359/09/REV 1, 26 Nov. 2009.

⁴ (Former) EPC policy analyst Mirjam Dittrich gives a good overview of the post-9/11 EU responses to terrorism in her report *Facing the global terrorist threat: a European response*, working paper 14 (Brussels: European Policy Centre, Jan. 2005).

of significant decisions and measures. Foremost was the decision establishing a European arrest warrant through which surrender procedures between member states were greatly facilitated. A second major breakthrough for intra-European counterterrorism cooperation was the adoption of the framework decision defining a common concept of terrorist offences.⁵ This served as the necessary basis for intra-EU judicial and police cooperation by its inclusion into the member states' legal systems. Another scheme previously proposed, creating an EU-wide coordination body among magistrates to enhance the effectiveness of the competent judicial authorities of the member states when dealing with the investigation and prosecution of serious cross-border and organized crime, was also rapidly put in place as 'Eurojust'. Additionally, within Europol counterterrorism now became of paramount importance, compared to the early days of the organization when terrorism did not even figure among its priorities.⁶

However, the attempt by Belgium, as holder of the rotating EU presidency, to create within Europol a Counter Terrorism Task Force with access to information from both the intelligence and the police services clashed with the traditional reluctance of the former to share information with the latter. The abandonment of this scheme in 2002 reflected a trend, generally acknowledged by 2003, towards a diminished sense of urgency. The implementation of existing agreements and the coordination of ongoing activities within the EU Council, as well as between the Brussels-based and the national decision-making processes, were considered problematic. National reluctance to act upon the operational arrangements that had been put in place and the preference for bilateral arrangements in the field of intelligence-sharing were highlighted.⁷

The March 2004 attacks at the Atocha railway station in Madrid put an end to this inertia. New operational arrangements were decided on. In order to overcome implementation and coordination problems, Gijs de Vries, a long-time liberal Dutch MEP, former minister and diplomatist, was appointed the first EU Counterterrorism Coordinator, two weeks after the bombings. At the same Council meeting, the heads of state anticipated the approval of the draft constitution for Europe by adopting a highly symbolic article containing a solidarity commitment, by which member states agreed to act in solidarity in the event of a terrorist attack against one of them. The path was also cleared for a comprehensive new programme for strengthening freedom, security and justice in the EU. This replaced and went beyond the 1999 Tampere Programme. Special emphasis was put on the exchange of information between law enforcement agencies. Within Eurojust, a Counterterrorism Team was set up in order to respond to the increasing demand for specialist work to facilitate and deal effectively with requests for assistance. This team was a forerunner of the team structure Eurojust established in a number of areas of work at the end of 2004.

⁵ Before the entry into force of the Lisbon Treaty, framework decisions were used to align the laws and regulations of the member states. They were binding on the member states as to the result to be achieved, but left the choice of form and methods to the national authorities.

⁶ House of Lords Select Committee on the European Union, *Twenty-ninth report*, Session 2007–08, 28 Oct. 2008, <http://www.publications.parliament.uk/pa/ld200708/ldselect/lducom/183/18307.htm>, accessed 29 May 2010.

⁷ 'Efforts by the Union to combat terrorism', Council Working Document 2004/7177/04/JAI, 8 March 2004.

Finally, the Madrid attacks prompted the EU and its member states to break new ground in their counterterrorism approach when they started to delve into the mechanisms underpinning the recruitment of individuals into terrorism. The Council meeting of March 2004 called for a thorough assessment of 'the factors which contribute to support for, and recruitment into, terrorism'. Parallel initiatives led the EU into a whole new field of counterterrorism thinking, dealing with the so-called 'root causes' of terrorism.

This reflected what was to become the second major characteristic of European thinking on terrorism: a focus on prevention, through the identification of the underlying factors that can lead to terrorism. This was another crucial difference between European and American approaches: the idea of 'roots' was initially 'a taboo in the Bush administration, with "evil" the only acceptable explanation for the attacks of September 11'.⁸ Europe never wholly shared the American paradigm that the attacks of 9/11 'revealed the outlines of a new world' and 'provided a warning of future dangers of terror networks aided by outlaw regimes and ideologies that incite the murder of the innocent, and weapons of mass destruction that multiply destructive power'.⁹ Because of its historical experience with terrorism, Europe considered it to be of crucial importance to understand what drove this new wave of terrorism in order to be able to dry up the sources of individuals' involvement in it.

The story now becomes familiar. As the months passed, the drive to deepen cooperation once again lost momentum. Gijs de Vries publicly complained about the national bureaucracies' lack of enthusiasm in implementing political decisions. What had been created since 9/11 as the result of the need for urgent action ultimately became a patchwork of decisions and mechanisms so complex that even EU officials—let alone the public at large—lost sight of what had been decided, who was doing what when, and who was in charge of implementing the wide variety of decisions. The track record of all these decisions was difficult, if not impossible, to assess.

Once again it was a major terrorist incident that revived counterterrorism decision-making at EU level. The July 2005 London bombings acted as a booster for enhanced cooperation. Holding the rotating presidency of the EU in the second half of 2005, the UK proposed bringing order to the chaos and elaborated—mirroring the structure of its own recently adopted counterterrorism strategy—an overall European Union Counterterrorism Strategy, effectively streamlining the ad hoc measures into a single framework.

The EU strategy was based upon four strategic objectives, called 'pillars', covering the same ground as the UK strategy, albeit with some slight semantic differences: 'Prevent', 'Protect', 'Pursue' and 'Respond'. 'Prevent' stood for stemming the radicalization process by tackling its root causes and terrorist recruitment.¹⁰ 'Protect' aimed at sheltering citizens and infrastructure from new attacks. 'Pursue'

⁸ *Washington Post*, 24 Dec. 2002.

⁹ Remarks by President Bush at the National Defense University, 8 March 2005.

¹⁰ Today, the Commission also classifies preventing access to explosives and terrorist finances under the 'Prevent' strand.

EU counterterrorism strategy

related to the efforts to pursue and investigate terrorists and their networks across EU borders. 'Respond' intended to put into practice the 2004 solidarity clause by enhancing consequence management mechanisms and capabilities to be used in the event of an attack in one of the member states. On 1 December 2005, the EU justice and interior ministers agreed on this new counterterrorism strategy. Subsequently the heads of state and government, in their December 2005 Council meeting, followed suit and formally adopted the strategy.¹¹

As part and parcel of this new overall strategy, the European Council simultaneously adopted the Strategy for Combating Radicalization and Recruitment to Terrorism, thus confirming that radicalization had become one of the central threads in Europe's counterterrorism approach.

This overall strategy clearly had the advantage of not only streamlining, but also institutionalizing, the intra-European collaboration in counterterrorism, which as a result reached cruising speed. But by 2010—after a short-lived sense of urgency as a result of foiled plots in the UK, Germany and Denmark—the drive to further EU-wide cooperation had once again largely subsided. In November 2009, the new EU Counterterrorism Coordinator, Gilles de Kerchove, pointed to a growing sense of 'CT fatigue'.¹² The major reasons for this relative decline in EU counterterrorism activity are obvious. No major attacks have occurred since the London bombings. Moreover, the EU mechanisms in place are producing satisfying results, so that no new instruments appear needed for the time being. Probably there is an element of truth in this analysis, even if it is difficult to assess the effectiveness of the EU-wide counterterrorism cooperation, since there are no agreed yardsticks by which to do so.

The main building blocks of the EU's counterterrorism architecture

Since 9/11 the EU's role in combating terrorism has been considerably boosted. One should, however, never lose sight of the fact that its member states remain, even after the reform of the EU through the Lisbon Treaty, the primary actors in this field. They largely retain the final authority in respect of police, judicial and intelligence services, which are the main instruments in the EU's distinctive approach to terrorism. The EU as such plays a supporting role, where and when it is deemed able to inject added value into the endeavours of its member states.

EU working groups dealing with terrorism

The 1992 Maastricht Treaty organized the EU around three 'pillars', responding to the policy domains covered by the Union. Corresponding working groups were created dealing with terrorism. In the second pillar (foreign and security policy), the Working Party on Terrorism (External Aspects) (COTER) handles aspects of foreign policy related to terrorism. In the third pillar (JHA), the Terrorism

¹¹ Council of the European Union, 14469/4/05 REV 4, 30 Nov. 2005.

¹² Note by the EU Counter-Terrorism Coordinator to the Council 15359/09/REV 1, 26 Nov. 2009.

Working Group (TWG) deals with internal threat assessments, practical cooperation and coordination among EU bodies. A third group, called CP93I, is a focused working group dealing with listing and de-listing of persons, groups and entities on so-called terrorism lists, and is composed of delegates from member states' interior and foreign ministries.

Following the ratification of the Lisbon Treaty, some envisaged a merger of the three groups under the chairmanship of an EU service or the EU Counterterrorism Coordinator, in line with the main thrust of the treaty to do away with the pillar structure of the EU. But member states have not been enthusiastic about the prospect of putting these working groups under the Union umbrella. So they will probably remain under the aegis of the traditional rotating EU presidency. Reflecting the 'CT fatigue' mentioned by the EU Counterterrorism Coordinator at the end of 2009, the attendance of the working groups is tending to involve less senior-level officials than in the past and their meetings might become less regular.

The EU Counterterrorism Coordinator

Partly as a result of this 'bureaucratization' of the EU working groups, the status of the EU Counterterrorism Coordinator seems to have increased. He is now widely perceived by outside powers to be their principal interlocutor within the EU on counterterrorism matters, with direct access to the President of the European Council, the High Representative and all the relevant commissioners, as well as the pertinent ministries of the member states.

Europol

Terrorism was included in Europol's mandate in 1999. In 2000 it started working on 'Islamic terrorism'.¹³ However, member states routinely failed to provide Europol with operational data.¹⁴ After 9/11, Europol gained more authority, but its institutional organization fluctuated somewhat erratically, reflecting the event-driven movement of EU counterterrorism endeavours overall. The ill-fated Counter Terrorism Task Force of 2001 was re-established after the Madrid bombings. In the past, the main obstacle for Europol has always been the voluntary character of the information flow from national capitals to the Europol headquarters. Moreover, member states have always preferred to control data exchanges with third parties outside the EU. But in September 2005 the European Council decided that henceforth member states were required to inform Europol of their own national ongoing investigations.¹⁵ Europol has proved that it can offer added value by its pooling of expertise and its sharing of best practices. 'It provides a unique service to political decision-makers at the strategic level by outlining trends and assessing the terrorist threat in general terms as well as by offering advice ...

¹³ Frank Gregory, 'The EU's response to 9/11: a case study of institutional roles and policy processes with special reference to issues of accountability and human rights', *Terrorism and Political Violence* 17: 1–2, 2005, p. 114.

¹⁴ Oldrich Bures, 'Europol's fledgling counterterrorism role', *Terrorism and Political Violence* 20: 4, 2008, p. 501.

¹⁵ Council Decision 2005/671/JHA, 20 Sept. 2005.

[and by acting as] facilitator of horizontal, decentralized co-operation.’¹⁶ As a result, the quality of Europol’s annual Terrorism Situation and Threat Report (TE-SAT) has improved over the years.

Eurojust

The origins of this body date back to the Tampere Council of 1999, but its creation was propelled by the counterterrorism drive that followed 9/11. Eurojust functions as an independent group of magistrates, tasked with improving coordination and cooperation among investigators and prosecutors dealing with serious crime. Eurojust’s added value is obvious in the case of cross-border activities in pursuing those suspected of serious crimes. Since its beginnings, its Counterterrorism Team has been promoting a proactive approach. This is new to the world of prosecution, where by definition crime is reacted to, not prevented. The team continuously makes efforts to become a counterterrorism prevention ‘centre of expertise’ by creating awareness and identifying risks, trends and best practices. Its aim is to evolve from a purely retroactive coordination to a (more) proactive one. New legislation on, for example, terrorist recruitment and training and public provocation opens the way for this kind of preventive approach, making it possible both to disrupt criminal activities and to achieve good results at trial. Eurojust is acutely aware that its legitimacy depends very much upon its ability to support member states’ authorities in countering terrorism. Its team is thus proactively urging decision-makers to take legislative initiatives conducive to coordination. As is the case with Europol’s TE-SAT, Eurojust’s *Counter-Terrorism Monitor*, a quarterly overview of relevant counterterrorism judgments in the EU, based on open sources and complete with full judicial analyses, will in time offer prosecutors a unique and reliable body of counterterrorism case law.

Taking a bird’s-eye view of the evolution of EU activity since the early 1970s, it is possible to see a clear overall tendency towards increased police and judicial cooperation within EU structures. An example of this trend is provided by an informal network that was created outside EU structures in 2005 as the Treaty of Prüm, aimed at enhancing cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, among seven member states. This has now been formally integrated within the EU. As a consequence, national law enforcement authorities will gradually be able to access databases in other member states, including fingerprints, DNA and vehicle registration data.

But persistent problems continue to impede the effectiveness of EU counterterrorism cooperation. As a result, in some EU member states scepticism about the added value of some of the arrangements in place, such as Europol and Eurojust, is palpable.

A decade after its creation, Eurojust still achieves less than its founding fathers had hoped. It is difficult to compile evidence and statistics on cases where Eurojust’s

¹⁶ Björn Müller-Wille, ‘The effect of international terrorism on EU intelligence co-operation’, *Journal of Common Market Studies* 46: 1, 2008, pp. 58–9.

input contributed to tangible counterterrorism outcomes, such as arrests and convictions. Therefore, it is complicated to prove or to convince the member states about Eurojust's added value. A persistent lack of confidence between experts from various countries, the wide variety of legal systems and (more particularly) the different definitions of terrorism among and even within member states, as well as (more generally) the unwillingness of some member states to use Eurojust fully, have hampered Eurojust's effectiveness. It has never been able to effectively coordinate prosecutions, and potentially useful mechanisms, such as the Joint Investigation Teams (formally under Eurojust's watch), are still under-utilized. The entry into force of the Lisbon Treaty will not affect to any great extent the operations of Eurojust, which depend ultimately on the goodwill of the member states for their smooth and swift functioning. Eurojust does not have the power to influence their attitude towards the organization.

As for Europol, a conjuncture of recent decisions appears to have stemmed the flow of information. An internal organizational overhaul, intended to model Europol along the lines of the UK's Serious Organized Crime Agency (SOCA), together with a Council decision in April 2009 to transform Europol into an EU body from 1 January 2010, were intended to enhance the flexibility and rapidity of the organization in responding to trends in serious crime, including terrorism. But rather the opposite seems to have happened. The involvement of more actors in the counterterrorism endeavour at Europol has reignited the traditional reluctance of member states to transfer confidential information to the organization.

Another stumbling block hindering Europol's effective functioning as Europe's primary law enforcement agency is the persistent national preference for bilateral relationships and the parallel participation in informal, practitioner-led networks, such as the Police Working Group on Terrorism (PWGT) and the more high-level Police Chiefs Task Force (PCTF),¹⁷ the Counter-Terrorism Group (CTG) within the Club of Berne,¹⁸ or the so-called G6 group (created in 2003 by the interior ministers of France, Germany, Italy, Poland, Spain and the UK, but now dormant). These arrangements are felt to be more useful than multilateral arrangements. But the net effect is that they often work at the expense of supporting Europol.¹⁹ Their relative lack of structure is often said to be helpful, but the informal basis on which they work tends to detract from the continuity of their work, as well as from their legitimacy.²⁰ Though appearing multilateral at first sight, these networks serve principally as a framework for the pursuit of existing

¹⁷ The PWGT was created in 1979, comprising Special Branches and internal security services of the EC member states and some additional European states, and was intended to promote trust and operational cooperation in combating terrorism. The PCTF was set up in April 2000 to provide its members with the opportunity to exchange information at a high level on European policing issues and practices. Early attempts to institutionalize these groups formally within the EU have been abandoned.

¹⁸ The Counter-Terrorism Group (CTG) was created within the Club of Berne in the aftermath of the 9/11 attacks. It was first set up to familiarize candidate member states' agencies with counterterrorism practices, but gradually evolved towards the role of intermediary between the security services and the European Council, in particular feeding SitCen (see n. 22 below) with terrorism-related information.

¹⁹ Bures, 'Europol's fledgling counterterrorism role', p. 506.

²⁰ Monica den Boer, Claudia Hillebrand and Andreas Nölke, 'Legitimacy under pressure: the European web of counter-terrorism networks', *Journal of Common Market Studies* 46: 1, 2008, pp. 101–24.

bilateral relationships. The same goes for Europol: however strange it might seem, its secured data transmission system is used more frequently for bilateral data exchanges than for contributions to Europol as a whole.

A similar pattern can be noticed in the case of intelligence services. During the negotiation of the Lisbon Treaty, large member states, in particular the UK and France, successfully insisted that intelligence matters should remain outside the realm of the integration process. The UK was able at the eleventh hour to insert into the Lisbon Treaty an article effectively stipulating that 'national security [i.e. intelligence] remains the sole responsibility of each Member State' (article 4.2). But more pro-integrationist member states were able to adjust this by inserting an article specifying that like-minded member states have the capacity to organize between themselves forms of cooperation and coordination in the domain of national security (article 73).²¹

International terrorism thus seems to have had rather a limited effect on EU intelligence-sharing. Notwithstanding the modernization, expansion and broadening of the EU Situation Centre (SitCen),²² the longstanding preference for trading intelligence rather than sharing it still prevails. Ingrained resistance to the centralization of European intelligence cooperation doomed the far-reaching Austrian and Belgian ideas for a European CIA, put forward in 2004, to stillbirth. Even if cooperation among national services has been enhanced, most of it takes place outside the institutional framework of the EU, though there exists a web of ad hoc lines of contact between the different intelligence-driven organizations and the EU.

Assessing progress in Europe's counterterrorism strategy

Since 2005, the EU has had a strategic concept of counterterrorism that is multidimensional in character, corresponding to the multifaceted reality of terrorism. But progress has been uneven in the different pillars of the strategy. Most EU-wide results have been obtained in the 'Protect' strand, where the European Commission is a leading actor, and in 'Pursue', where the member states' vital interests are at stake and close cross-border cooperation is vital. Less progress has been recorded in 'Prevent' and 'Respond'.

In the area of protecting against terrorist attacks, the EU has been able to enhance EU-wide security standards and border protection arrangements to a considerable degree. Technical cross-border arrangements have been taken in a number of terrorism-related issues, such as identifying and securing precursors in explosives and Conventional, Biological, Radiological and Nuclear materials

²¹ Gilles de Kerchove, 'Future challenges in the fight against terrorism', in *Fusion centres throughout Europe*, report of Belgian Standing Committee I (Antwerp, Oxford and Portland: Intersentia, 2010), pp. xxii-xxiii.

²² SitCen is located within the Council secretariat and is charged with producing strategic threat assessments, early warning situation reports and intelligence reports that are made available to all relevant agencies within the EU, as well as to all member states. SitCen was originally designed to assess threats emanating from outside the EU, but in 2005 its scope was broadened to include assessments and data from domestic intelligence agencies. This evolution reflects the shifting emphasis in European counterterrorism towards the home-grown dimension, as described in this article.

(CBRN). Aviation and maritime security have been enhanced through several regulations by the Commission. In 2007, for the first time, security-related research and development figured prominently in the EU's research programme. This pillar is considered to be the 'most dynamic area of EU activity due to the intersection of member states' interest in controlling migration and US pressure for more border and transport security'.²³ The mere fact that the Commission had regulatory power in the domains involved has undoubtedly contributed to rapid decision-making.

The second pillar, pursuing terrorists across borders and bringing them to justice, has also proved to be quite successful. National police forces and public prosecutors—including those of the UK—continue to make frequent use of the European Arrest Warrant. Since its adoption, more than 2,000 criminal suspects have been extradited on short notice. Dozens of cross-border terrorism-related investigations have been supported by Europol and Eurojust.²⁴ The increasing willingness of member states to cooperate in cross-border terrorist investigations and prosecutions, including the use of joint investigation teams, albeit falling far short of the hopes of more pro-integrationist member states, seems to have become an established pattern of stepped-up collaboration in the 'Pursue' pillar.

On the downside, 'Respond', the third pillar, shows a persistent preference for national action in the field of civil protection and crisis management. Even if progress has been made in identifying means to be put at the disposal of the Union in case of emergencies, member states' national crisis centres continue to play the central role. Since 2007, the European Commission's small Community Mechanism for Civil Protection and its operational heart, the Monitoring and Information Center (MIC), available around the clock, have formally been enabled also to deal with consequence management after major terrorist attacks, but their involvement depends upon voluntary national offers in case of an emergency.²⁵ The Commission's contribution is thus largely limited to facilitating the coordination of member states' operations. Several factors explain this state of affairs. The primary one is that since consequence management of (major natural or man-made) emergencies is of the utmost importance to the credibility and legitimacy of public authorities, national governments prefer to deal with this key aspect of governmental action themselves. Appeals to create a US-style Homeland Security Department at the EU level have thus understandably failed to gain any traction.

But it is in the first and foremost pillar of the EU's counterterrorism strategy, 'Prevent', that progress has been most laggardly. Drawing on their own experiences of (largely but not solely domestic) terrorism, the EU and its member states have been acutely aware, from a very early stage in the current campaign against

²³ Raphael Bossong, *The EU's mature counterterrorism policy: a critical historical and functional assessment*, LSE Challenge working paper (London: London School of Economics and Political Science, June 2008).

²⁴ Gijds de Vries, 'The fight against terrorism: five years after 9/11', presentation at the annual European Foreign Policy Conference, LSE and King's College, London, 30 June 2006.

²⁵ Since the Community Mechanism for Civil Protection was originally set up to deal with natural disasters, it remains situated within the Directorate-General for the Environment.

terrorism, that victory will not be achieved as long as the circumstances by which individuals turn into terrorists are not addressed—contrary to the American view that speaking of ‘root causes’ implied condoning terrorist acts.²⁶ September 11 caught most EU member states by surprise. With the possible exception of the French and Belgian police and security forces (who had had some experience with Iranian-backed and Algerian ‘religious’ terrorism in the 1980s), most European countries felt unprepared when confronted with a seemingly new strand of terrorism and a new kind of terrorist who used religious discourse to legitimize their acts. It thus took some time for a consensus view on ‘root causes’ to emerge within the EU counterterrorism community. So the first references to ‘root causes’ in this particular thread of terrorism were quite diverse and impressionistic.

In May 2004, in a common assessment of ‘underlying factors in the recruitment to terrorism’ by the two EU working groups dealing with terrorism, COTER and TWG, the following root causes were identified: radicalization, regional conflicts and failed or failing states, globalization and socio-economic factors, alienation, propagation of an extremist world-view, and systems of education. These underlying factors were not put in any order of priority, nor were they fully operationalized. But in the course of that year, the consensus on the nature of the threat started to shift, less so in the discourse than at the institutional and operational level. ‘Radicalization’ soon emerged as the main focal point in combating terrorism. Different but parallel developments explain this gradual singling out of that one element.

The first such development was undoubtedly the Madrid bombings and its less than obvious links with Al-Qaeda. The perpetrators did not seem to conform to the implicit standard terrorist profile of a devout Middle Eastern Muslim, but were rather connected with the significant Spanish–Moroccan migrant diaspora. Immediately after the Madrid bombings, a closed meeting organized by the Belgian Royal Institute for International Relations at the request of the Irish EU presidency brought together for the first time the two EU working groups with the police and intelligence services of the member states to discuss terrorist recruitment. Participants tried to determine whether top-down recruitment by international networks such as Al-Qaeda or rather bottom-up self-recruitment was the main avenue by which individuals were drawn into terrorism. The Irish presidency took note of the discussions at this conference and the above-mentioned common assessment of May 2004 ensued.

However, the degree of consensus that existed in 2004 around placing radicalization at the centre of European counterterrorism thinking should not be overestimated. Among the EU member states, most were adamant that the emphasis should be on repressive measures. But a limited number of member states constantly argued that prevention was an equally important tool if long-term results in combating terrorism were to be achieved.

²⁶ Nowadays and for the same reason, official EU statements no longer use the expression ‘root causes’. Preference is now given to the expression ‘factors which can lead to radicalization and recruitment’ or ‘conditions conducive to terrorism’ (UN jargon).

Initially, the view of terrorism as a domestic issue was clearly secondary to the view that it was essentially an external threat. In the years following 9/11 this line of reasoning was clearly dominant in European counterterrorism thinking, as can be seen in one of the first official EU declarations on terrorism, in September 2001: 'The fight against the scourge of terrorism will be all the more effective if it is based on an in-depth political dialogue with those countries and regions of the world in which terrorism comes into being.'²⁷ When the domestic scene was mentioned, it was always in conjunction with external recruitment: outside recruiters attempting to brainwash and attract youngsters living within Europe.

But parallel dynamics in member states and in the European bureaucracy brought to the fore a whole new dimension of terrorism in which terrorists come into being through a bottom-up process rather than via top-down recruitment by foreign radicals.

Substantial research by the Dutch intelligence service (AIVD) undoubtedly provided the first solid moorings for the notions of 'self-radicalization' and 'self-recruitment' within EU thinking. The AIVD was among the first intelligence services to emphasize publicly that radicalization had become a major avenue by which individuals turned into terrorists, not so much as a result of active outside recruitment as by an autonomous, self-propelled process. The murders in 2002 of the libertarian Dutch politician Pim Fortuyn by a lone wolf activist and, especially, in 2004 of the film-maker Theo van Gogh by a young member of a loose grouping of radicals, all of Moroccan descent and born or raised in the Netherlands, turned the spotlight onto home-grown terrorism. The AIVD was the first agency to introduce within the EU the notion of 'decentralization of Islamist terrorism'.

Early in 2004 the Metropolitan Police in London noticed the beginning of an analogous, albeit not identical, trend in the UK: groups of British citizens travelling abroad (to Pakistan in particular) to receive training and instruction, then returning in order to carry out attacks in the UK.²⁸

In December 2004, the European Council agreed to elaborate a strategy and action plan to address radicalization and recruitment to terrorism:

The European Council reiterated its conviction that in order to be effective in the long run the Union's response to terrorism must address the root causes of terrorism. Radicalisation and terrorist recruitment can be closely connected. The European Council called on the Council to establish a long-term strategy and action plan on both issues by June 2005, building on the report on recruitment recently adopted by the Council. It invited the Secretary-General/High Representative and the Commission to submit proposals to this effect.²⁹

In 2004 and 2005, the Commission and the Council secretariat drove this issue further forward. Under the guidance of Gilles de Kerchove, then director for Justice and Home Affairs at the EU Council secretariat, a vast amount of research,

²⁷ Conclusions and Plan of Action of the Extraordinary European Council Meeting, SN 140/01, 21 Sept. 2001.

²⁸ Deputy Assistant Commissioner Peter Clarke, 'Learning from experience: counterterrorism in the UK since 9/11', first Colin Cramphorn Memorial Lecture, 24 April 2007, http://cms.met.police.uk/news/major_operational_announcements/terrorism/dac_peter_clark_s_speech_on_counter_terrorism, accessed 29 May 2010.

²⁹ Presidency conclusions, Brussels European Council, 16238/1/04 REV 1, 16–17 Dec. 2004.

consultation and information-gathering on radicalization was pooled. In January 2005, SitCen's mandate was broadened to include the domestic threat in its strategic assessments, based upon information from the domestic intelligence services.

Finally, the London bombings of July 2005 firmly anchored radicalization, intertwined with the so-called 'home-grown dimension', at the heart of EU counterterrorism endeavours. In September 2005 the European Commission presented its 'Communication concerning terrorist recruitment: addressing the factors contributing to violent radicalisation'. The ensuing EU Counter-Terrorism Strategy, while still defining terrorism as an external phenomenon ('much of the terrorist threat to Europe originates outside the EU'),³⁰ clearly emphasized the preventive dimension of work to combat it. Indeed, 'Prevent' was deliberately, and after some internal discussion, mentioned as the first of the four strategic objectives. The parallel Strategy for Combating Radicalisation and Recruitment to Terrorism pointed to the need to understand the 'motives behind such a decision [i.e. to become involved in terrorism]' and to 'identify and counter the ways, propaganda and conditions through which people are drawn into terrorism and consider it a legitimate course of action'.³¹ In April 2006 European Commissioner Franco Frattini appointed an EC Expert Group on Violent Radicalisation, a policy advisory group of experts from different member states.³²

By 2005 the terror threat within the EU was thus increasingly seen as a home-grown challenge and threat. International events—the Iraq war in particular—increasingly appeared to function both as a booster and as a source of inspiration to potential terrorists. Iraq was seen as a black hole that attracted youngsters from all over the world—including converts like Muriel Degauque, a Belgian woman of 38 who blew herself up in Iraq in November 2005. In that year, a leading Belgian police official in charge of counterterrorism, Glenn Audenaert, described jihadi groups as a 'patchwork of self-radicalising local groups with international contacts, but without any central engine and any central organisational design'.

Without fully realizing it, the EU thus found itself in new and uncharted territory, since this issue clearly impinged upon national sovereignty by going to the heart of political, social and cultural differences among member states. From the start, radicalization was essentially intertwined with issues of integration, social policy, multiculturalism and the representation of minority groups. As a consequence, counterterrorism now had to involve actors that were largely unfamiliar with—and even hostile to—its sphere of operations: for example, integration officials and authorities, which were quite resistant to the idea that their longstanding endeavours should become intertwined with security-related objectives, thus 'securitizing' social policies. Moreover, the more research was produced on the issue of radicalization, the clearer it became that the very notion

³⁰ Council note from the presidency and the CTC on the European Union Counter-Terrorism Strategy, 14469/4/05 REV 4, 30 Nov. 2005.

³¹ Council item, note from the presidency on the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism, 14781/1/05 REV 1, 24 Nov. 2005.

³² For unknown reasons, after having completed its first overall study by May 2008, the EC Expert Group on Violent Radicalisation was discontinued by Franco Frattini's successor, Jacques Barrot.

of radicalization was ill-defined, complex and controversial. Religious and political radicalizations were and still are often conflated,³³ thus coupling issues of social cohesion with national security concerns. A torrent of research on the issue has been unleashed, funded both by the Commission and by member states. But this has neither resulted in a clear consensus on what kind of radicalization is to be addressed, nor on the degree to which radical but non-violent religious discourse is to be included in counterterrorism. Some, but not all, member states, recognize that there is an inherent tension between the fight against terrorism—a crime—and the fight against radicalization—aspects of which might constitutionally be protected as free speech. Member states have thus pursued different national approaches to disrupt and counter extremist discourse, including on the internet, according to Gijs de Vries during a conference in The Hague in 2007.

Although agreements on deradicalization have been concluded and topics agreed upon,³⁴ concrete success remains evasive and Europe-wide coordination is lagging. It is probably fair to say that in the meantime most member states have realized the difficulty or even the impossibility of implementing a ‘one size fits all’ deradicalization approach, including the elaboration of a counternarrative. Nevertheless, in order to make progress in this area, in March 2008 the Counter-Terrorism Coordinator asked the member states most interested in this issue to take the initiative in various aspects and identify innovative approaches that might serve as models for all member states. The UK thus became ‘lead nation’ on communication and media to counter extremist narratives; Sweden, succeeded by Belgium in 2009, on community policing, focusing on the key role of local police in recognizing and countering radicalization; Spain on imam training; the Netherlands on the role of local authorities in preventing radicalization; and Denmark on radicalization among young people.

The lead nation approach is intended to create expert communities across borders and will probably not result in impressive operational achievements in the short run. The cultural differences among—and even within—member states are simply too great, and the very issue of radicalization too multifaceted and imprecise, to result in any overall deradicalization strategy at the EU level. At best it will enhance the awareness of this home-grown dimension of contemporary terrorism, which is often still labelled ‘international’.

EU cooperation with international counterterrorism

As noted above, the international dimension of terrorism was very much present at the beginning of the current counterterrorism campaign. In the aftermath

³³ In its May 2008 Report, the EC Expert Group on Violent Radicalisation had warned that: ‘Today’s religious and political radicalisation should ... not be confused. The former is closely intertwined with identity dynamics, whereas the latter is boosted by the ... feelings of inequity whether real or perceived. Both expressions of radicalisation processes are thus the result of very different individual and collective dynamics.’

³⁴ The EU Strategy for Combating Radicalisation and Recruitment to Terrorism was revised in November 2008 (CS/2008/15175). The strategy set out three general strands of EU action: to disrupt the activities of networks and individuals who draw people into terrorism; to ensure that voices of mainstream opinion prevail over those of extremism; and to promote—yet more vigorously—security, justice, democracy and opportunity for all.

of 9/11 terrorism was undoubtedly seen primarily as an alien threat—before radicalization took centre stage. In its immediate post-9/11 Plan of Action of September 2001, the European Council indeed stated as its expressed aim ‘to make the fight against terrorism part of all aspects of the EU’s external actions’. In 2003 terrorism was included as the primary ‘key threat’ in the first ever European Security Strategy, elaborated by the EU High Representative for the Common Foreign and Security Policy (CFSP).

This early emphasis on including counterterrorism in the EU’s second pillar, the CFSP, did not, however, lead to substantial results. When in June 2004 the European Council asked the Political and Security Committee to elaborate upon the contribution the European Security and Defence Policy (ESDP) specifically could render in the fight against terrorism, a feeling of perplexity and bewilderment could be sensed.

Member states remain genuinely divided over whether the EU should engage ESDP resources in direct military intervention against terrorist activity.³⁵ Some member states are adamantly opposed to such an undertaking, whereas others are deeply involved in current operations, in Afghanistan in particular. As a consequence, neither the EU nor those of its member states which participate in the Afghan operations have the critical mass to influence strategic decision-making in Afghanistan or in other military contingencies, such as Somalia, where counterterrorism borders on counterinsurgency operations.³⁶

Since 2004, the CFSP and its defence component the ESDP have not played a major role in European counterterrorism—all the more so because of the shift of emphasis in the EU’s counterterrorism activity towards the ‘home front’. Alongside the close interaction between the pertinent UN agencies and the EU (in particular the Counter-Terrorism Coordinator), the international dimension is essentially made up of two parallel lines of action: collaboration with the US and aid to specific countries.

As far as the former is concerned, during the Bush administration transatlantic cooperation on counterterrorism was strained. Immediately after 9/11, the rotating Belgian EU presidency aimed at presenting the EU as the natural and vital partner to the US in counterterrorism. The Commission subscribed to this strategy of using the response to 9/11 as a lever for deepening political integration.³⁷ But political differences on how best to tackle terrorism (law enforcement vs the ‘global war on terror’), divergence about the nature of the threat, dissimilar historical experiences with terrorism, the invasion of Iraq and the American preference for working bilaterally proved to have a greater impact than the spontaneous solidarity expressed by the EU at the moment of the 9/11 attacks.

Day-to-day practical cooperation between the US and EU member states went

³⁵ Gustav Lindstrom, *The ESDP contribution to the fight against terrorism*, report of a seminar held by the EU Institute for Security Studies in support of the Luxembourg presidency and the Council of the European Union, Brussels, 7 March 2005.

³⁶ On these interlinkages and mutually reinforcing modes of operations, see Michael J. Boyle, ‘Do counterterrorism and counterinsurgency go together?’, *International Affairs* 86: 2, March 2010, pp. 333–53.

³⁷ Christian Kaunert, ‘The external dimension of EU counter-terrorism relations: competences, interests, and institutions’, *Terrorism and Political Violence* 22: 1, 2010, p. 55.

ahead mostly on a bilateral level. Most significant counterterrorism investigations in Europe had a US involvement in one way or another, and European states have provided the US with intelligence. Another axis of cooperation, where the EU as such was involved, was the creation of a legal framework to underpin the exchange of data the US wanted in the fight against terrorism. But even after the advent of the Obama administration, data-sharing remained a delicate issue, as could be seen by the refusal of the European Parliament in February 2010 to endorse the provisional EU–US agreement on the transfer of bank data for counterterrorism purposes and the palpable reluctance to approve the pursuit of the 2007 agreement on the transfer of air passenger data to the US and Australia. But the arrival of the Obama administration has nevertheless relaxed some of the existing tensions. This was reflected in the joint EU–US declaration of 15 June 2009, establishing a framework for member states to receive former detainees from the Guantánamo Bay detention centre.

The second string in the international dimension concerns counterterrorism aid to specific states, selected following a threat analysis by the EU and its member states and defined as regions of major concern for the EU. Most of this aid is directed to Pakistan (because of the links between Pakistan-based terrorist groups and Pakistan-born radicals in Europe), the Sahel states (because of the presence of Al-Qaeda in the Islamic Maghreb) and now also the Yemen/Horn of Africa (because of the presence of Al-Qaeda in the Arabic Peninsula in Yemen and of Al-Shabab in Somalia). Even if member states are in charge of carrying out particular strands of work, the EU Counter-Terrorism Coordinator has been an energetic advocate of these arrangements, aimed at responding to the problem of failed and failing states which provide potential havens not only for terrorists but for all forms of crime.³⁸ But some member states, in particular the UK and France, do not wish the EU to have a monopoly in relations with these countries, while the Commission and other member states are reluctant to use development and aid money to pursue security-related objectives. As a result, only relatively modest financial contributions are allocated to these activities. Nevertheless, though originally limited to counterterrorism assistance, more recently the EU's involvement with such third states has incorporated development-related programmes that might influence factors at the root of local and regional terrorism.

Conclusion

When assessing the EU's record in counterterrorism one should not lose sight of the fact that it was never intended to replace the member states' own endeavours. On the contrary, the EU's contribution has always been presented as a complement to national efforts, where added value was possible and desirable. Moreover, the EU counterterrorism architecture cannot but reflect the intricate web of overlapping decision-making levels and authorities that characterizes the EU itself. Also, as a result of different national experiences and cultures in regard

³⁸ Note by the EU Counter-Terrorism Coordinator to the Council, 15359/09/REV 1, 26 Nov. 2009.

to terrorism, not all member states perceive terrorism with the same degree of urgency, nor are all moving in the same direction and at the same speed as far as the European integration process is concerned, some preferring to remain outside European arrangements that impact on counterterrorism (as is the case with the UK remaining outside Schengen). Finally, practitioners in the field and negotiators of European arrangements do not always see eye to eye. The value added of tools that are seen as pragmatic, such as the European Arrest Warrant and the joint investigations teams, is more rapidly identified than the more arcane multilateral structures that have been set up.

Nevertheless, since the early 1970s the EC/EU member states have gone far beyond what most observers and member states thought achievable—and desirable—in the field of justice and home affairs, where most of Europe's counterterrorism endeavours are situated. This is without doubt the area where the role of the EU has grown most significantly in the first decade of the twenty-first century.³⁹ Counterterrorism has acted as a booster for cooperative cross-border arrangements going far beyond terrorism.

It looks likely, however, that treaty-based arrangements on counterterrorism have reached their limits, and that the near future belongs to mostly incremental steps. Most member states consider the existing arrangements to be adequate in view of the gradual fragmentation and thus the demise of jihadi terrorism as a strategic threat since 2004–2006. Instruments have been created and results have been obtained, so it is widely judged. In the foreseeable future, barring dramatic new events, the European counterterrorism architecture is thus likely to continue at the cruising speed it has achieved in the past decade—or gradually slow down, depending ultimately upon the interests and attitude of the EU's member states.

³⁹ De Vries, 'The fight against terrorism'.

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