

THE EU'S EXTERNAL ACTION ON COUNTER-TERRORISM

DEVELOPMENT, STRUCTURES AND ACTIONS

Teemu Tammikko & Tuomas Iso-Markku

FIIA
REPORT

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The first edition of this report was published in Finnish, as part of a research project conducted by the Finnish Institute of International Affairs entitled "The External Dimensions of Counter-Terrorism". The project was part of the implementation of the Government Plan for Analysis, Assessment and Research for 2019.

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All FIIA reports and other publications are available on our website at
www.fiia.fi

Translation: Lingsoft

Printed by Punamusta Oy, 2020

Graphic design: Mainostoimisto SST Oy

Layout: Kaarina Tammisto

ISSN 1458-994X (print)

ISSN 2323-5454 (web)

ISBN 978-951-769-644-9 (print)

ISBN 978-951-769-645-6 (web)

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LIST OF ABBREVIATIONS

APF	African Peace Facility
ASEAN	Association of Southeast Asian Nations
AU	African Union
CBSD	Capacity Building in Support of Security and Development
CEPOL	European Union Agency for Law Enforcement Training
COCOP	Working Party on the Application of Specific Measures to Combat Terrorism
COREPER	Committee of Permanent Representatives (<i>French: Comité des représentants permanents</i>)
COSI	Standing Committee on Operational Cooperation on Internal Security
COTER	Working Party on Terrorism, International Aspects
CT	Counterterrorism
CTC	EU Counter-Terrorism Coordinator
CT MORSE	Counter-Terrorism Monitoring, Reporting and Support Mechanism
CTR	Counter-Terrorism Register
EASA	European Union Aviation Safety Agency
EASO	European Asylum Support Office
ECOWAS	Economic Community of West African States
ECTC	European Counter Terrorism Center
EP	European Parliament
EPPO	European Public Prosecutor's Office
ESDP	European Security and Defence Policy
OSCE	Organization for Security and Co-operation in Europe
EU	European Union
EEAS	European External Action Service
EUPM	European Union Police Mission
EURODAC	European Asylum Dactyloscopy Database
Eurojust	European Union Agency for Criminal Justice Cooperation
Europol	European Union Agency for Law Enforcement Cooperation
EUTF	EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa
FAC	Foreign Affairs Council
FATF	Financial Action Task Force
FPI	Service for Foreign Policy Instrument

Frontex	European Border and Coast Guard Agency
GCC	Gulf Cooperation Council
GCTF	Global Counterterrorism Forum
IcSP	Instrument contributing to Stability and Peace
IISG	Integrative Internal Security Governance
INTCEN	European Union Intelligence and Situation Centre
IPA-instrument	Instrument for Pre-Accession Assistance
Nato	North Atlantic Treaty Organization
OECD	Organisation for Economic Co-operation and Development
P/CVE	Preventing and countering violent extremism
PNR	Passenger Name Record
PSC	Political and Security Committee
RAN	Radicalisation Awareness Network
RELEX	Working Party of Foreign Relations Counsellors
SIENA	Secure Information Exchange Network Application
SIS II	Schengen Information System II
TAIEX	Technical Assistance and Information Exchange
TE-SAT	European Union Terrorism Situation and Trend Report
TREVI	Terrorisme, Radicalisme, Extrémisme et Violence Internationale
TWP	Working Party on Terrorism
UN	United Nations
CESDP	Common European Security and Defence Policy
CFSP	Common Foreign and Security Policy
VIS	Visa Information System
WBCTi	Western Balkans Counter-Terrorism Initiative

ACKNOWLEDGEMENTS

This FIIA report is a translated and revised version of the final report of the research project “The External Dimensions of Counter-Terrorism” (Terrorismin torjunnan ulkoiset ulottuvuudet), which was funded by the Finnish Government Plan for Analysis, Assessment and Research (VN-TEAS) and ran from March 2019 to January 2020. In addition to the research work leading up to the final report, the project comprised a closed brainstorming session and two public seminars in Helsinki. We would like to thank the speakers and participants of the events for sharing their expertise.

As part of the research project, the research group also authored a working paper that built largely on the Sahel-related parts of this report. The document was presented at the meeting of the Council Working Party on Terrorism (International Aspects) (COTER) in Brussels on 3 December 2019. The presentation was related to Finland’s presidency of the Council of the European Union in the second half of 2019. We would like to express our gratitude to the participants of the COTER meeting, whose insightful questions, comments, and criticism were taken into account when writing the final report. Special thanks go to Ambassador Päivi Kairamo, who facilitated the visit.

The research project was conducted under the guidance of a steering group appointed by the Prime Minister’s Office and chaired by Olli Ruohomäki from the Ministry for Foreign Affairs. We are very grateful to all the members of the steering group for their expertise, ideas, critical questions and feedback, which helped us focus our research. We would also like to thank the steering group for its substantial assistance in identifying relevant interview partners.

In the context of the project, a total of 21 semi-structured interviews were conducted. The interviewees represented the following parties: Europol, Eurojust, the European External Action Service (EEAS) (Counter-Terrorism Unit, EU Delegations, EU Military Staff), the European Parliament Research Service, the European Commission’s Directorate-General for Development Policy and the Directorate-General for Neighbourhood Policy, the Foreign Policy Instruments, the Office of the European Counter-Terrorism Coordinator, the Radicalisation Awareness Network (RAN), CMC Finland, the Finnish Ministry for Foreign Affairs

and the Finnish Ministry of Defence. Our sincere gratitude goes to all the interviewees for giving us their time and sharing their insights with us, thereby greatly contributing to our understanding of the complex field of EU counter-terrorism and to this report.

We would also like to thank Programme Director Juha Jokela for his helpful comments on an early draft of the final report, our colleagues at FIIA who helped us with specific questions regarding our topic as well as the FIIA publication and research communication team for their support throughout the project. Furthermore, we are thankful to Lingsoft for translating the report from Finnish into English.

Finally, we are greatly indebted to Research Assistant Anu Ruokamo, who has been an elemental part of the project team. Her diligent project management maintained the project on track at all times, and she provided invaluable assistance in preparing the final report.

The responsibility for the contents of this report, including any factual errors or analytical shortcomings, rests solely with the authors. The views expressed in this study do not necessarily represent those of the Government of Finland.

INTRODUCTION

Terrorism is regarded as one of the EU's main security threats. Although Europol statistics indicate that the number of terrorist attacks is decreasing, they still result in fatalities. Occasionally, the scale of these attacks is exceptionally large, and their significance to the sense of security experienced by the people is significant.¹ This has political importance as well. Over the years, many counter-terrorism measures have been developed. Consequently, law enforcement is more and more efficient, and the threshold for criminal proceedings in terrorism-related cases has been lowered. Despite the fact that the number of attacks has decreased, the number of arrests and convictions remains significant.² Hence, there is still a considerable level of terrorist networking and movement in Europe. This is particularly true with regard to jihadism, which seems to have increased with the conflicts in Syria and Iraq.

EU citizens have also long considered terrorism as one of the most important challenges for the EU. In the spring 2017 Eurobarometer survey, 44% of EU citizens listed terrorism as one of the two most important issues facing the EU, making terrorism the citizens' single most important EU-level concern. By autumn 2019, the share of citizens who listed terrorism as one of the two most important issues for the EU had fallen to 16%, but terrorism remained among the Union's five main challenges.³ At the same time, countering terrorism is, according to Eurobarometer opinion polls, the policy area in which citizens most clearly want more

1 For instance the impact of the 2015 Paris attack on public opinion in Strebelt & Steenberger 2017.

2 Europol 2019a, 11-16.

3 European Commission 2019a, 16-17.

decision-making at the European level. In the 2019 spring Eurobarometer survey, 79% of EU citizens supported increased decision-making at the European level in the field of counter-terrorism.⁴

As a result of the threat of terrorism, counter-terrorism has become a key part of the EU's broad policy agenda in the 2000s and 2010s. Because of the cross-border nature of terrorism, counter-terrorism measures are not limited to the EU's own territory, but extend in many different forms beyond the Union. Consequently, the EU has gradually become a major international actor in the fight against terrorism.⁵ The importance of external action in the EU's counter-terrorism policy has increased further during the 2010s.

This is also clearly reflected in the EU's own strategy documents. The EU's Global Strategy from 2016⁶ identifies terrorism as one of the key threats to the EU and its citizens. At the same time, the strategy strongly emphasises that the EU's internal and external security are more and more intertwined, and stresses the need not only to develop the EU's own counter-terrorism capacity, but also to cooperate with the EU's neighbourhood and other regions in countering terrorism and violent extremism. More effective international cooperation in the field of counter-terrorism has also been called for by the Council of the European Union in its conclusions in 2015⁷, 2017⁸ and 2018.⁹

The political momentum stemming from the threat of terrorism, combined with the EU's strategic visions, has led to the mainstreaming of counter-terrorism measures over the years. It means that counter-terrorism and the prevention of violent extremism must be taken into account in all relevant EU policies. As a result of mainstreaming, countering terrorism has become an issue that cuts across different administrative branches and policy areas. This is also reflected in the EU's external action, where the aim has been to make counter-terrorism an integral part of the Union's broad range of policies and instruments.

At the same time, the European Union has been criticised for being a 'paper tiger' when it comes to countering terrorism in practice. This view is based on the fact that the Union's focus in the field of counter-terrorism was initially above all on developing common concepts and legislation, but

4 European Commission 2019b, 177-178.

5 Monar 2015, 333-356.

6 European External Action Service 2016.

7 Council of the European Union 2015a.

8 Council of the European Union 2017a.

9 Council of the European Union 2018.

their implementation at the national level faced severe shortcomings.¹⁰ In recent years, the EU has tried to respond to this criticism through the aforementioned mainstreaming, by strengthening the links and coordination between its external and internal security policies, and by increasing the role of various internal security actors. Many of these changes are still ongoing and their impact may not yet be visible in practice. It is clear, however, that the ongoing developments have wide-ranging implications for the EU's external action on counter-terrorism.

Given the cross-cutting nature of counter-terrorism efforts, the EU's external counter-terrorism policies are characterised by complex decision-making and implementation structures and partly overlapping roles and responsibilities. They make it difficult to grasp or analyse the EU's external counter-terrorism activities. In addition, this field has been in constant movement since the beginning, both because of changes related to the area of counter-terrorism as such, and because of broader developments in the EU's external action, internal security (the area of freedom, security and justice) and inter-institutional relations. However, given the importance of terrorism as a phenomenon, the expectations of citizens regarding the EU's role in countering terrorism, and the increasing significance of the external aspects of the fight against terrorism, it is important to study the EU's external action on counter-terrorism. The aim of this report is to help address this challenge and answer the following questions:

1. How has the EU's external action on counter-terrorism evolved, and what kind of trends are currently visible in this field?
2. What kind of actors, policies and practices does EU external action on counter-terrorism encompass, and how does it work in practice?
3. What role do the external counter-terrorism policies and practices play in the context of counter-terrorism more broadly, and in what ways is counter-terrorism visible in the context of the EU's external action at large?
4. What are the main opportunities and challenges associated with the EU's external action on counter-terrorism?
5. What do the practical examples reveal of the significance and impact of the EU's external action on counter-terrorism?

The main objective of the report is to describe and analyse as comprehensively as possible both the nature and the development of the EU's

¹⁰ Bures 2011, 1–3.

external counter-terrorism policies and practices. The main focus is on describing and analysing recent developments and the current situation, but the report also aims to give an idea of the direction in which the EU's external action on counter-terrorism is developing. However, by the time of writing, this field continues to undergo significant changes, and it is therefore difficult to make any far-reaching predictions about its future.

Although the report seeks to provide a comprehensive overview of the EU's external action on counter-terrorism, it does not seek to directly assess its impact on the terrorist threat facing Europe. Providing such an impact assessment would require a sophisticated methodological framework of its own, a long-term perspective as well as strong expertise on the countries targeted with the EU's external counter-terrorism measures.¹¹ Furthermore, assessing the impact of counter-terrorism measures is made more difficult by the fact that, in practice, the evolution of terrorism is the sum of many factors, and the EU's counter-terrorism measures are only one of the factors affecting it. Consequently, the impact assessments in this report are limited to the general – and in some cases regional – observations on the EU's external counter-terrorism activities which emerge through practical examples.

The report is a policy-relevant publication, which follows academic citation guidelines and relies on existing academic and policy-oriented literature on the subject. The report combines, complements, and updates existing literature, thus contributing to both the academic debate and policy discussions on the EU's counter-terrorism activities and their external forms.

STRUCTURE OF THE REPORT

The structure of the report is designed so that the reader is able to perceive the EU's external action on counter-terrorism from a number of different perspectives. The first chapter of the report, which follows the introduction, defines the key concepts of the report, such as terrorism, violent extremism and counter-terrorism, and describes the various forms of EU external action on counter-terrorism. In practice, external counter-terrorism work is carried out in four different frameworks: 1) the Common Foreign and Security Policy, 2) the Common Security and Defence Policy, 3) external action more broadly (such as enlargement negotiations, neighbourhood policy and development cooperation), and 4) the external dimension of internal security policies.

¹¹ See e.g. Argomaniz et al. 2015, 193.

In this context, it should be borne in mind that this report focuses exclusively on those (external) EU policies, practices and actions that are explicitly linked to counter-terrorism. It is worth noting, however, that other EU policies, practices and actions can play an important role in the overall fight against terrorism as well. Such measures include, for example, supporting economic development, good governance, education, political freedoms and human rights in different countries. However, these are largely excluded from this report, since their inclusion in the report would have made the topic under discussion too broad on the one hand and even more complex on the other.

The second chapter of the report deals with the development of the EU's strategic thinking regarding counter-terrorism and external action. Counter-terrorism, its external dimension in particular, is still a relatively recent area of EU activity, since its creation and development are strongly intertwined with the terrorist attacks of September 11, 2001, in the United States and the subsequent attacks in Madrid and London in 2004 and 2005, respectively. At the beginning, the development of counter-terrorism policies and practices was strongly characterised by a reactive approach, in which new steps were always the result of major attacks.¹² Although the attacks of September 11 highlighted the international nature of terrorism, and the cross-border nature of the phenomenon was recognised in the EU from the outset, the pillar division preceding the Lisbon Treaty clearly distinguished between external and internal security, with counter-terrorism being primarily included in the latter. Overall, the link between counter-terrorism and the EU's Common Foreign and Security Policy remained rather thin, especially in the early 2000s. However, towards the end of the decade, the EU started to emphasise the links between external and internal security, which has led to different measures to bring the external and internal security actors and policies together and to increase coordination between them. This has also been reflected in the EU's approach to counter-terrorism. The development involves not only opportunities but also challenges and risks.

The third chapter focuses on the actors and roles related to the EU's external action on counter-terrorism. When it comes to the overall direction of external counter-terrorism policy, it is driven primarily by the Member States. Key roles are played by the European Council, which is in charge of formulating the strategic guidelines, and the Council of the European Union, which acts as the main decision-making body. They are supported by several working groups within the Council structures, which focus on counter-terrorism. A significant role is also played by

12 See e.g. Argomaniz et al. 2015, 196-197; Kaunert & Léonard 2012, 417-432; Hassan 2010, 445-466.

the fairly independent Counter-Terrorism Coordinator and his office. However, the actual implementation of the counter-terrorism policies is mainly delegated to the counter-terrorism unit of the European External Action Service. Much of the executive work is also carried out under different Commission Directorates-General. In terms of role allocations, one of the key changes in recent years has been the increased role of internal security actors in external action. In particular, the external role, competences, capabilities and capacities of the European Border and Coast Guard Agency Frontex have been increased, and counter-terrorism was recently added to its tasks. However, the Frontex reform is still in progress, and its final impact on EU security policy, counter-terrorism included, is still difficult to assess.

In the fourth chapter of the report, the EU's external action on counter-terrorism will be examined through a number of different practical examples. The aim of this chapter is to describe and analyse the EU's external counter-terrorism work in practice and thus also to provide some observations on the EU's potential and challenges as an external counter-terrorism actor, as well as on the relationship between the EU's external counter-terrorism activities and the Union's external action more broadly. This chapter approaches the EU's external counter-terrorism work through short case studies. An important area of external action is diplomacy and the related international cooperation in different forums. In this respect, the EU has clearly established itself as a normative actor, actively seeking to export its own concepts and practices. Another key form of EU external action on counter-terrorism is the building of counter-terrorism capacities in third countries. This dimension is strongly present in the Sahel region. The first and so far only EU crisis management missions that explicitly focus on several counter-terrorism-related tasks and objectives are all situated in the Sahel region. However, EU counter-terrorism work in the Sahel region is not limited to building the local counter-terrorism capacities through the CSDP missions, but also encompasses many other forms of counter-terrorism, which have been integrated into the EU's comprehensive approach to tackle the challenges in the region.

Support for third countries in countering terrorism is also a key part of EU action in the Western Balkans. The case of the Western Balkans is special compared to many other regions, because relations between the Western Balkan countries and the EU are primarily dealt with in the framework of the EU's enlargement policy. The last case study in the fourth chapter looks at the EU's approach to the issue of foreign terrorist fighters. The question of foreign terrorist fighters has in many ways

challenged the relationship between internal and external security. Many Member States have demonstrated a strong desire to decide unilaterally what to do with their own nationals who are currently imprisoned or contained in Iraq, Syria or Turkey. As the EU's external action on counter-terrorism is largely driven by the Member States, domestic political pressures and the resulting disagreements between the Member States can at worst significantly limit the EU's ability to act, leaving each Member State to tackle the issue on its own.

The fourth chapter is followed by a short concluding section, which summarises and discusses the main findings of the report.

For the needs of the report, the authors have collected diverse research material on the EU's counter-terrorism policies and practices, the development of the EU's foreign and security policy and the Union's strategic framework on external action, EU crisis management, EU development cooperation, enlargement and neighbourhood policy, and the EU agencies that are relevant in the field of counter-terrorism. The majority of the material is composed of EU documents, publications and reports, existing academic research literature and different policy-oriented publications.

In addition to the above-mentioned material, semi-structured interviews with relevant EU and national authorities and experts have been conducted. There were a total of 21 interviewees, representing the following parties: Europol, Eurojust, the European External Action Service (EEAS) (Counter-Terrorism Unit, EU Delegations, EU Military Staff), the European Parliament Research Service, the European Commission's Directorate-General for Development Policy and the Directorate-General for Neighbourhood Policy, the Foreign Policy Instruments, the Office of the European Counter-Terrorism Coordinator, the Radicalisation Awareness Network (RAN), CMC Finland, the Finnish Ministry for Foreign Affairs and the Finnish Ministry of Defence. In addition, the authors of the report had the opportunity to discuss with the EU Special Representative for the Sahel region at a meeting at the Finnish Institute of International Affairs. To facilitate the interview process and allow for honest discussions, it was agreed in advance that the input of the interviewees would remain anonymous and the interviews would be used as background material. Due to the nature of the interviews, the report does not contain any direct references to the interview material.

/ 1

1. EU EXTERNAL ACTION AND COUNTER-TERRORISM

- The European Union is one of the few international actors which has managed to reach a common definition on terrorism. The definition has been included in the legislation of the Member States.
- The EU's own counter-terrorism strategy is divided into four sub-categories: prevention, protection, pursuit, and response. They are also relevant from the point of view of external action.
- EU external action on counter-terrorism is implemented in four different frameworks. These are the EU's Common Foreign and Security Policy, the Common Security and Defence Policy, other forms of external action, such as enlargement negotiations, neighbourhood policy and development cooperation, and the external dimension of the Union's internal security policies.
- All in all, EU external action on counter-terrorism forms a multidimensional entity, which encompasses different decision-making and policy-making processes and a large number of different actors and administrative cultures.

1.1. TERRORISM

The concepts of terrorism and violent extremism are strongly charged politically, as they overlap closely with the relationship between the state and the citizens. Therefore, the form of governance of a state is often a critical factor in defining them, as authoritarian systems in particular tend to perceive any political groups challenging the administration as

‘extremist’ or ‘radical’, regardless of these groups’ attitudes towards the use of violence.

The European Union is one of the few international actors that has managed to reach a common definition of terrorism. The definition has been included in the legislation of the Member States. In order to avoid confusion, prejudice and stigmatisation, the EU has considered it important to define key terms as neutrally as possible and without emotional connotations.¹³ Although most of the EU’s counter-terrorism work is currently targeted at jihadist terrorism, the EU’s definition of terrorism is not bound to any particular political ideology. Instead, terrorism is considered as a method, a certain way of acting. Consequently, terrorists are those who use terrorist means. The EU listed terrorist offences in the 2002 Council of the European Union Framework Decision. The list was supplemented in 2005, 2015 and 2017. The directive defines terrorist offences as follows:

*attacks against a person’s life, as intentional acts that can qualify as terrorist offences when and insofar as committed with a specific terrorist aim, namely to seriously intimidate a population, to unduly compel a government or an international organisation to perform or abstain from performing any act, or to seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation.*¹⁴

The definition has been modified over the years. In particular, more details on recruitment, training, travel and the funding of travel for terrorist purposes have been added. For example, drawing up counterfeit identity documents for a journey for terrorist purposes is a criminal offence under the directive, as is the idealisation and defence of terrorism, for instance on social media, and independent study to prepare a bomb.

The definition of terrorism has a great deal of practical importance. There is separate legislation for terrorism, while other acts of political violence usually fall under a different category in criminal law. This affects the authorities’ means of intervening in crimes, as the powers of the police, for instance, are often broader in terms of terrorist offences than in terms of other crimes. The concept is also relevant from the point of view of external action. Once a consensus on terrorism has been formed with a third country, it is easier for the EU agencies to conclude operational

13 European Commission 2019c, 4.

14 Directive (EU) 2017/541 of the European Parliament and of the Council.

agreements with the corresponding authorities in the country concerned. The agreement negotiated by the Commission also allows for the exchange of personal data with third countries. This makes it possible for an agency with an operational agreement, such as Europol, to exchange information, for example, on those suspected of terrorism. If there is no consensus on the definition of terrorism, this will limit the scope of cooperation. That is why EU cooperation on counter-terrorism with Turkey and Egypt, for instance, is limited. In addition to defining terrorism, an equal understanding of data security issues has also been a key criterion for concluding cooperation agreements.¹⁵

1.2. VIOLENT EXTREMISM AND RADICALISATION

Extremism and radicalism generally refer to an ideology legitimising political violence, particularly terrorism. However, radicalism in particular may also refer in a more neutral manner to thinking which differs significantly from the mainstream, regardless of its relationship with violence. Extremism tends to refer to the extreme and absolute form of an ideological trend. At the same time, however, extremist thinking is also radical.¹⁶ If the actors in question do not aim to restrict the freedoms of others or use violence, extremism will fit into the political freedoms included in the conceptions of fundamental and human rights.¹⁷

Extremist thinking becomes dangerous when it involves acceptance of the use of violence.¹⁸ This is referred to as *violent extremism*. As in the case of terrorism, the chosen means rather than the distance of extremist thinking from the general public opinion becomes a significant determining factor. Nonetheless, the EU does not have a formal definition of violent extremism. Instead, it employs the use and support of violence as part of the pursuit of ideological, religious or political objectives as a sort of working concept.¹⁹

Radicalisation refers to the process in which an individual's beliefs change from those close to mainstream to extreme thinking of some kind. In this case, the individual's goals may also change so that he or she begins to act in favour of a strong and unconditional change.²⁰ It is only when

¹⁵ See Monar 2015, 346.

¹⁶ Tammikko 2019a, 267–268.

¹⁷ European Commission 2019c, 6.

¹⁸ Ibidem.

¹⁹ Ibidem.

²⁰ See e.g. Schmid 2013, 12–13.

an individual regards violence as a legitimate means of reaching these goals that radicalisation has led to violent extremism.²¹ In the light of current research, the radicalisation process is non-linear, which means that although it often has the same elements, the order in which they play out is very individual. However, there is no consensus that violence is the end point of the radicalisation process. In other words, an individual can first accept the use of violence in his or her intimate relationships, for example, and only later find ideological justifications for it. Drifting into groups and their impact can also be a very complex development. The process can also contain uncertainty and indecision about what is right and what is wrong.²²

1.3. COUNTER-TERRORISM

Counter-terrorism is often divided into so-called hard and soft tendencies. Law enforcement and prevention carried out by the police, or in some cases the military, is normally considered 'hard', whereas methods which can be used before the requirements for a suspicion of criminal activity are met under law and the powers of law enforcement authorities to intervene begin, are considered 'soft'. The latter include, for instance, dialogue between different ethnic and religious groups which aims to reduce social conflicts and the temptation to use violence. The 2005 EU Counter-Terrorism Strategy divided the fight against terrorism into four areas based on their objectives:

- **Prevention:** addressing the causes of radicalisation and terrorist recruitment.
- **Protection:** protecting citizens and critical infrastructure from terrorist attacks and reducing vulnerability.
- **Pursuit:** hindering terrorists' capacity to plan and organise, and bringing terrorists to justice.
- **Response:** improving preparedness for terrorist attacks and reducing their consequences.²³

Of the aforementioned pillars of combating terrorism, pursuit in particular has been associated with 'hard' methods. As law enforcement authorities are subject to the national sovereignty of the Member States

21 European Commission 2019c, 6.

22 Tammikko 2019a, 55-58; Hamm & Spaaj 2017, 150-173; Neumann 2013, 873-893.

23 Council of the European Union 2005.

in the EU, it is primarily up to the Member States to prevent terrorism and bring terrorists to justice. However, cooperation related to pursuit is also carried out in the context of external action, for example through joint criminal investigations or the exchange of intelligence. In addition, an important form of EU external action on counter-terrorism is the development of counter-terrorism capacities in third countries. This work may be significant from the perspective of more than one of the aforementioned areas, but especially with regard to hindering terrorism and bringing terrorists to justice (pursuit).

External action on counter-terrorism is also strongly intertwined with the pillars of prevention and protection. In its strategy²⁴ for countering radicalisation in 2014, the Council of the European Union outlined that the priority of preventive practices in both internal and external security is to promote equal opportunities for people, to act on a local level, to respond to extremist propaganda, and to develop and build the capacity of the authorities to respond to the challenges. This requires cross-sectoral cooperation on local, regional, national and international levels. At the same time, the role of development cooperation in countering radicalisation and supporting vulnerable countries was emphasised. In practice, the pillars of prevention and pursuit are clear priorities in terms of funding in the EU's external counter-terrorism work.²⁵

Of the dimensions of countering terrorism, prevention has increased most strongly in recent years. Among other things, this is reflected in how much the EU invests in different P/CVE projects. The abbreviation P/CVE stands for *preventing and countering violent extremism*. Some NGOs or partners have been against the use of the term 'counter' in this context because it is perceived as part of the 'hard' measures already mentioned, which are primarily linked to the area of security policy, not development policy. In practice, preventive action mainly involves very 'soft' approaches, such as interreligious dialogue.²⁶ As a result, both the word 'prevent' and the word 'counter' have remained in the abbreviation used by the EU, although PVE and CVE are used as synonyms in many contexts.

The European Commission's P/CVE projects cover eight different themes: the development of education, media awareness, the empowerment of women, youth work, socio-economic inclusion, building of administrative capacity, provisional law and inter-community activities.²⁷ Thus, P/CVE serves as a broad umbrella for various activities carried out

24 Council of the European Union 2014a

25 Glazzard & Reed 2018, 14.

26 European Commission 2019c, 8-9.

27 Ibid.

in different policy areas to prevent violent extremism or to reduce the impact of structural background factors related to it. As the delimitation between conflict prevention, development cooperation and stabilisation projects is often difficult, P/CVE is administratively divided between different Commission Directorates-General.

1.4. COUNTER-TERRORISM IN EU EXTERNAL ACTION

As is the case with the EU's foreign policy and external action in general²⁸, EU external action on counter-terrorism encompasses a wide range of different policies and instruments, decision-making and policy-making processes as well as actors and administrative cultures. In this report, EU external action on counter-terrorism is divided into four main branches, which correspond to the four frameworks of EU external action at large.²⁹ Those are the following:

1. The Common Foreign and Security Policy (CFSP), a key political and diplomatic framework for EU foreign policy;
2. The Common Security and Defence Policy (CSDP), as part of the CFSP, providing a framework for EU military and civilian missions and the development of military and civilian capabilities;
3. Other external action, whose most important forms, from the point of view of counter-terrorism, include development cooperation, neighbourhood policy and enlargement policy;
4. The external dimension of the work of the EU's internal security actors, whose importance has increased particularly in the 2010s.

The CFSP is the key political and diplomatic framework for EU foreign policy, within which EU Member States 'coordinate, define and implement' the EU's foreign and security policy.³⁰ The CFSP framework addresses a broad range of foreign policy issues, including security and defence policy issues within the CSDP area. Under the CFSP, the EU defines its foreign and security policy positions and possible actions in relation to individual geographical or thematic issues, and may impose sanctions or make decisions concerning CSDP missions.

²⁸ Keukeleire & Delreux 2014, 14-18.

²⁹ Ibid.

³⁰ Dijkstra & Vanhoonaeker 2017.

In the fight against terrorism outside the EU borders, the CFSP, and the CSDP as part of it, are important in many respects. They constitute a framework within which the EU adopts policies and makes decisions, for instance, on political dialogues with third countries and certain international agreements with them as well as on CSDP missions, all of which may include counter-terrorism components. Within the CFSP framework, the EU can also make decisions on, for instance, sanctions related to terrorism. On the other hand, development cooperation, neighbourhood and enlargement policies, which have become increasingly important also regarding counter-terrorism, do not fall within the scope of the CFSP. Instead, they form part of the EU's broader external action, which forms a third central framework for EU external action on counter-terrorism. The fourth framework is composed of the external dimensions of the EU's internal security policies. This applies, for instance, to the increased role of internal security agencies, such as European Law Enforcement Agency (Europol), Eurojust and, above all, the European Border and Coast Guard Agency (Frontex), outside the EU.

Of the policy areas mentioned above, the CFSP and the CSDP are strongly in the hands of the EU Member States. The decisions concerning them are prepared primarily in the structures of the Council of the European Union, composed of representatives of the Member States, under the guidance of the capitals of the Member States. The Council is responsible for decision-making, and most decisions require the unanimity of the Member States. In the preparation and coordination of CFSP and CSDP issues and their alignment with other EU policies, the High Representative of the European Union for Foreign Affairs and Security Policy and the External Action Service under his/her direction will support the Member States and the Council.

In other areas of external action, the European Commission, alongside the Member States and the Council, is a key actor, as it has the exclusive right of initiative regarding EU legislation and manages significant financial instruments. In its activities, the Commission can rely on the extensive administrative machinery of the different Directorates-General. The European Parliament (EP) has a significantly smaller role in foreign policy and external action. Its ability to play a role is related to its budgetary powers, the powers to conclude certain international agreements and the regular dialogue with other institutions.³¹ However, in the CFSP and CSDP in particular, the Parliament's role is very small.

In decision-making concerning the external dimension of internal security policies, the Member States acting through the Council, the

31 Keukeleire & Delreux 2014, 85–88.

Commission and the EP, acting as co-legislator in many fields, all play an important role. Other important actors in the external dimension of internal security are the individual EU agencies, which support the EU institutions in the preparation and implementation of various policies. Key agencies in the field of counter-terrorism include in particular Europol, Eurojust, which works on legal issues, and Frontex, which will grow rapidly in the coming years. The agencies operate somewhat independently within their mandate, but their decision-making mechanisms include representatives of the Member States, which allows the Member States to influence their activities. Key actors in the EU's external action on counter-terrorism are discussed in more detail in Chapter 3 of this report.

In terms of the EU's fight against terrorism as a whole, the Member States' own national actions, which may strongly overlap with the actions of the EU, are also particularly important, although some of them are also clearly distinct from those of the Union. However, the external action taken by individual Member States in the field of counter-terrorism is largely outside the scope of this report, as it would not have been possible to cover this dimension within the time limits set for this project. In terms of the role of the Member States, it is worth noting that there is no single platform or tool for coordinating the strategies, policies and actions of the EU and the Member States in the external fight against terrorism. In practice, coordination is therefore highly contextual and case-specific, mostly taking place within the Council of the European Union and its sub-structures.

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2. DEVELOPMENT OF THE EU'S EXTERNAL COUNTER-TERRORISM APPROACH

- The history of the common EU response to terrorism is still relatively short, as its initial stages are strongly linked to the major terrorist attacks in the early 2000s.
- At the initial conceptual stage, the main focus was on defining common concepts, legislative frameworks and strategies. From the very beginning, the key EU documents emphasised the importance of EU foreign and security policy to the fight against terrorism, although in practice the link remained rather weak.
- The second and current stage of development in the EU's counter-terrorism approach is characterised by a strong emphasis on the internal-external security nexus. The drivers of this development have been the changes brought about by the Lisbon Treaty in the institutional structures of the EU, the security challenges facing the Union – in particular, the phenomenon of foreign terrorist fighters – and the Global Strategy from 2016.
- Due to the nature of many security challenges, the emphasis on the links between internal and external policies and actors is a natural development. On the other hand, this development also involves uncertainties and challenges. In particular, the changing roles of and division of tasks between the actors – especially the strengthening of the role of internal security agencies in external action – increase the risk of resource and power struggles between different actors. The growing role of the agencies may also further obscure the practices and structures of EU's external action on counter-terrorism.

Cooperation in the fight against terrorism began in Europe in the 1970s when the Ministers of the Interior of the European Community decided to establish the TREVI network (*Terrorisme, radicalisme, extremismisme et violence internationale*).³² TREVI was the first step towards intergovernmental security cooperation, but it remained short-lived and limited in scope. However, TREVI was the basis for the internal security sections of the EU Treaties in Maastricht in 1993 and in Amsterdam in 1997.³³ At this stage, terrorism was seen primarily as an internal security challenge.

Terrorism was initially not part of the tasks outlined for the EU's Common Foreign and Security Policy (CFSP) or for the Common Security and Defence Policy (CSDP)³⁴ which was subsequently established as part of CFSP. The CFSP was not only a symbolic integration project but also an attempt to strengthen the EU's diplomatic capacity and external identity.³⁵ The CSDP, for its part, was developed as a tool to prevent and manage crises outside the EU and to develop the capabilities needed for crisis management. However, terrorism emerged on the EU's foreign policy agenda as a result of the attacks of September 11, 2001 and the subsequent attacks in Europe. They clarified the idea that cooperation and action outside the EU would also be needed to address the threat of terrorism.

This chapter deals with the development of the EU's approach to counter-terrorism, above all from the perspective of its external dimension. However, the chapter also contains a number of references to the development of internal counter-terrorism policies, as they create the necessary background for understanding the development of the external dimension, even if there are not always direct links between them.

In practice, at least two key steps can be identified in the development of the EU's response to terrorism. In the first, conceptual phase during the first decade of the 21st century following major international terrorist attacks, the EU began to create common concepts and legislation on terrorism that have since acted as facilitators for both the internal and external fight against terrorism in the EU. The role of the CFSP and the newly constructed ESDP/CSDP in countering terrorism was also regularly emphasised in EU documents, although in practice, this link remained rather weak.³⁶ The second stage, which began at the end of the 2000s, is

32 About TREVI, e.g. Monar 2014, 196–198; Hassan 2010, 446–447; Bonnefoi 1995.

33 Monar 2014, 197.

34 Initially, the Common Security and Defence Policy was known as the European Security and Defence Policy (ESDP). The name Common Security and Defence Policy (abbreviated CSDP) was introduced with the entry into force of the Lisbon Treaty. This report uses primarily the name CSDP. However, in the parts of the text that refer to pre-Lisbon times, the name ESDP is used as well.

35 See e.g. Keukeleire & Delreux 2014, 46–47.

36 Argomaniz 2012; Ferreira-Pereira & Oliveira Martins 2012; de Vries 2008.

characterised by the increased overlap between internal and external security policies and actors and the increased importance of security issues in the EU's external action.

2.1. CREATING COMMON CONCEPTS AND A STRATEGIC FRAMEWORK

2.1.1. Terrorism as a common and external threat

The September 11 attacks in the United States were carried out at a critical moment from a European perspective. The foundation for internal security structures had recently been agreed on, but their implementation was still in its early stages. The United States, along with NATO, is the cornerstone of Europe's external security, yet the attack proved it to be vulnerable. Even though terrorism had been plaguing European states for a long time, it was only with the jihadist attacks that it reached the top of the European security agenda. Terrorism was no longer simply an internal problem for individual countries, but rather a common security challenge to all Western countries. It was interpreted as threatening not only human lives, but also the existence of the whole democratic, open, multicultural and tolerant society – and thereby the core European values.³⁷ On the basis of this narrative, the EU quickly set out to create its own concepts and a common legal framework for dealing with terrorism. At the same time, terrorism and counter-terrorism measures became an important part of the EU's strategic framework for foreign and security policy, which was developed over the course of the first decade of the 2000s.

The extraordinary European Council meeting following the September 11 terrorist attacks emphasised the contribution of the CFSP and the ESDP to the fight against terrorism. The conclusions³⁸ of the European Council not only highlighted solidarity and cooperation with the United States but also included an action plan to combat terrorism. The action plan listed specific measures concerning the strengthening of police and judicial cooperation, the development of international legal instruments, the prevention of terrorist financing, the protection of critical infrastructure, the fight against money laundering, the enhancement of air safety and, finally, 'coordinating the European Union's global action'. In the context of the last point, the European Council's Action Plan stated that '[t]he Common Foreign and Security Policy will have to integrate further the fight against terrorism'.

³⁷ European Council 2001.

³⁸ Ibid.

In addition to the action plan, the conclusions of the European Council included a specific point in relation to the EU's global action, according to which '[t]he fight against terrorism requires of the Union that it play a greater part in the efforts of the international community to prevent and stabilise regional conflicts', specifically mentioning the conflict in the Middle East. In this context, too, the conclusions mentioned both the CFSP and the nascent ESDP, stressing that '[i]t is by developing the Common Foreign and Security Policy (CFSP) and by making the European Security and Defence Policy (ESDP) operational at the earliest opportunity that the Union will be most effective'.

On some of the counter-terrorism issues, progress was very quick. In October 2001, the Council listed 27 organisations and individuals suspected of financing terrorism. In December 2001, the EU had already succeeded in reaching an agreement on the definition of terrorism, which eventually took the shape of a Council framework decision in June 2002.³⁹ This was a very significant achievement, because before the attacks of September 11, only six EU Member States had any legislation on terrorism at all.⁴⁰ Although this was an internal definition for the EU, it has since created a framework for cooperation with third countries. An agreement was also reached on a European arrest and extradition decision.⁴¹ Framework decisions obliged the Member States to include the agreed issues in their national legislation within a strict time limit, i.e. by the turn of the year 2003–2004.

The importance of the external dimension of counter-terrorism was re-emphasised at the Seville European Council during the Spanish Presidency in June 2002. The conclusions of the meeting were accompanied by a separate declaration on the contribution of the CFSP and the ESDP in the fight against terrorism.⁴² The European Council emphasised that 'the fight against terrorism will continue to be a priority objective of the European Union and a key plank of its external relations policy'. The conclusions also stated that 'a common foreign and security policy, including the European Security and Defence Policy, can play an important role in countering this threat to our security and in promoting peace and stability'. The EU's first ESDP mission, the European Union Police Mission (EUPM) in Bosnia and Herzegovina, was also linked to the fight against terrorism in the conclusions: 'The EUPM is one example of the European Union's commitment to stabilise post-conflict regions, and to help establish the

39 Council of the European Union 2002a.

40 Argomaniz 2009, 155.

41 Council of the European Union 2002b.

42 Council of the European Union 2002c.

rule of law. By promoting stability, including by strengthening local law enforcement capabilities, norms and standards, the European Union helps to deny terrorist organisations the opportunity to take root’.

2.1.2. Security strategy

Terrorism and counter-terrorism also became an integral part of the EU’s security strategy published in 2003: *European Security Strategy: A Secure Europe in a Better World*.⁴³ The strategy was intended to repair divisions created within the EU as a result of the war in Iraq and to create a more coherent view of the Union’s foreign and security policy challenges, aims and instruments. Despite being called security strategy, the 2003 strategy focused mainly on the EU’s foreign and security policy and external action more broadly. Although the strategy also paid attention to the nexus between internal and external security issues, in practice, the EU’s internal security framework was largely developed as an independent, separate whole. This reflects the boundaries between the internal and external security areas in the institutional structures of the EU, which only the entry into force of the Lisbon Treaty in 2009 sought to roll back.

The European Security Strategy consisted of three parts: firstly, the threats faced by the EU, secondly, the strategic objectives of the EU, and thirdly, the impact which the threats and strategic objectives should have on the EU’s own policies. Following the terrorist attacks in September 2001, terrorism was the first of the five main threats mentioned in the strategy. In addition to terrorism, the other main threats listed in the strategy included the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime. In the strategy, the other threats were also linked to terrorism in one way or another.

On terrorism, the strategy stated that ‘[t]errorism puts lives at risk; it imposes large costs; it seeks to undermine the openness and tolerance of our societies, and it poses a growing strategic threat to the whole of Europe’. The strategy defined Europe as both a target for terrorism and a base for it. In relation to weapons of mass destruction, the strategy stated that ‘[t]he most frightening scenario is one in which terrorist groups acquire weapons of mass destruction.’ As for regional conflicts and failed states, they were identified in the strategy as potential root causes of terrorism, while organised crime and terrorism were seen as strongly interconnected phenomena.

As the EU’s strategic objectives, the security strategy defined addressing the five threats mentioned, building security in the EU’s neighbourhood, and promoting an international order based on effective

43 Council of the European Union 2003.

multilateralism. With regard to the fight against threats, the strategy emphasised that the EU reacted quickly to the terrorist attacks of September 11 with a package of measures, including the creation of a European arrest warrant, measures to prevent terrorist financing and an agreement with the United States on mutual legal assistance. At the same time, the strategy underlined the international dimension of the terrorist threat, stating that terrorist activities throughout the world, for example in Central and South-East Asia, ‘may be a threat to European countries or their citizens’. The conclusion of the strategy was that ‘[w]ith the new threats, the first line of defence will often be abroad’. Furthermore, the strategy underlined that ‘[d]ealing with terrorism may require a mixture of intelligence, police, judicial, military and other means’.

The third and final part of the strategy also returned to the link between external and internal security and the integration of the various EU instruments. This part considered the impact of threats and strategic objectives on EU action in practice. It stated that the coordination between EU external action and internal security policies was crucial in the fight against both terrorism and organised crime. In addition, the third part of the strategy created a stronger and more concrete link between the fight against terrorism and the ESDP, arguing that the EU’s crisis management operations could include ‘disarmament operations, support for third countries in combating terrorism and security sector reform’.

Overall, counter-terrorism became firmly anchored in the EU’s strategic framework for foreign and security policy, which developed around the European Security Strategy. The strategic framework was extended and complemented by various regional and thematic sub-strategies and the 2008 document entitled ‘Report on the Implementation of the European Security Strategy – Providing Security in a Changing World’, which updated the security strategy slightly. At the same time, however, terrorism was still strongly perceived as an internal security challenge for the EU, and the strategic framework for internal security developed as a separate whole.

2.1.3. Declaration on combating terrorism and declaration on solidarity against terrorism

The window of opportunity for rapid action opened by the September 11 attacks closed quite quickly, and many EU Member States did not succeed in implementing the agreed decisions in due time. As a result, a large part of the agreed measures remained unimplemented at the national level when Madrid was hit in 2004. The Madrid attack is still the second

most destructive attack on European soil since the 1988 Lockerbie aircraft attack.

It is quite possible that the motivation behind the terrorist attack in Madrid was to influence Spain's involvement in the war in Iraq⁴⁴, but at the EU level, the attack was framed in a similar way as the September 11 terrorist acts a few years earlier. The President of the Commission, Romano Prodi, said in his post-attack statement that the attack was malicious violence against innocent people for the sake of violence itself.⁴⁵ The attack was seen primarily as a threat to Western values – and hence the foundation of the whole European community. This made it possible to direct the political force after the attack to revitalise the faded momentum to implement the agreed changes. Politically, the situation was also favourable for the implementation of new proposals. The Madrid terrorist attack contributed greatly to the institutionalisation of the EU's counter-terrorism activities as a whole.

In the aftermath of the terrorist attack in Madrid, the European Council adopted a Declaration on Combating Terrorism⁴⁶. It stressed the need to implement the changes already agreed on and, as new measures, proposed increasing operational cooperation and the exchange of intelligence between Member States. In addition to this, the role of the Union's own agencies, Europol and Eurojust in particular, alongside national services was also emphasised.⁴⁷ As the declarations called for closer cooperation within the EU, it was also decided that an EU Counter-Terrorism Coordinator would be created. Since then, the coordinator has been tasked with supporting the Council in the fight against terrorism, supervising the implementation of decisions and acting as an ambassador for counter-terrorism activities towards third countries and international organisations. The role and activities of the coordinator are discussed in more detail in Chapter 3.1.

The external dimension of counter-terrorism work was also present in the declaration. In order to strengthen the EU's action plan to combat terrorism, the European Council set out seven new strategic objectives in the declaration. According to the seventh objective, the EU action in the field of external relations should be directed at third countries where 'counter-terrorist capacity or commitment to combating terrorism needs to be enhanced'. In the context of cooperation with third countries, the declaration also outlined that counter-terrorism aspects should be taken

44 On the attack and related policies, e.g. Sinkkonen 2009.

45 E.g. BBC News 2004.

46 European Council 2004.

47 Argomaniz 2009, 158.

into account in ‘all relevant external assistance programmes to promote good governance and the rule of law’. Furthermore, counter-terrorism should be a ‘key element’ in the dialogue with third countries, and third countries’ commitment to the fight against terrorism should have a strong impact on the relationship between the EU and those countries.

The declaration on combating terrorism also contained a separate declaration on solidarity against terrorism, according to which the EU Member States act jointly and in a spirit of solidarity if one of them is the victim of a terrorist attack, making use of all the instruments at their disposal, including military resources, to combat the terrorist threat in the territory of that country, to protect democratic institutions and the civilian population and to provide a Member State or an acceding state assistance at the request of its authorities. A reference to the possibility of using military resources makes the declaration of solidarity particularly interesting. Although the link between the counter-terrorism and the ESDP had already been emphasised in several EU documents, there was little debate on the role of military force in the EU counter-terrorism action. In practice, the question of the role of military force has continued to divide the views of the Member States, as a result of which terrorism will continue to be regarded in the EU primarily as a matter of law enforcement.⁴⁸

The declaration on solidarity built on the discussions held in the Convention on the Future of Europe, which put forward a draft Treaty establishing a Constitution for Europe in July 2003. The draft treaty included two clauses on mutual assistance between the Member States: the solidarity clause, which can be invoked in case of terrorist attacks and major natural or man-made disasters, and the mutual assistance clause, which can be activated if there is a military attack on one of the Member States. With its declaration on solidarity against terrorism, the European Council effectively adopted the terrorism-related parts of the solidarity clause even before agreement had been reached on the final wording of the Constitutional Treaty. In the end, the Constitutional Treaty was not ratified, as the majority of voters opposed it in referendums in France and the Netherlands. As a result, the solidarity clause and the mutual assistance clause only entered into force in 2009 as part of the Lisbon Treaty (see Chapter 2.2.2).

2.1.4. Counter-terrorism and the ESDP

In June 2004, the EU outlined for the first time in more detail the link between the ESDP and the fight against terrorism in its various forms in a document entitled *Conceptual framework on the European Security*

⁴⁸ Monar 2015, 337; de Vries 2008, 357–358.

and Defence Policy (ESDP) dimension of the fight against terrorism. As general principles, the document emphasised solidarity and cooperation between the Member States, the need to make use of all the policy instruments available to the EU and the EU's possibilities of combining civilian and military activities. The document's actual operational recommendations dealt with how different dimensions of counter-terrorism work (prevention, protection and consequence management) were to be taken into account in existing or future ESDP missions and operations. The document was therefore above all a reflection on what terrorism meant for existing and future ESDP missions, rather than a more comprehensive attempt to define how ESDP missions and operations could support the EU's counter-terrorism activities.

Nevertheless, the development of the link between the fight against terrorism and the ESDP was facilitated by the fact that soon after the launch of the ESDP, a civilian ESDP had been created alongside the military ESDP, involving, amongst other things, the police and judicial authorities, thus enabling the ESDP to tackle more diverse security challenges. At a practical level, however, the contribution of the ESDP to the EU's counter-terrorism activities remained, for the most part, limited and, even at best, patchy.⁴⁹ In most cases, counter-terrorism measures were at most implicitly present in early ESDP missions. For example, in the case of the EU's third military mission, the ALTHEA in Bosnia and Herzegovina, which was created in 2004, the importance of the fight against terrorism was emphasised mainly from the point of view of protecting the mission itself from terrorist activities. In addition, the mission was outlined as providing support to the High Representative of Bosnia and Herzegovina and other civilian authorities, for instance in countering terrorism and organised crime and in supporting the rule of law.⁵⁰ The second mandate of the EU Police mission Proxima in Macedonia, established in December 2003, included support to local police forces in border control activities, intelligence gathering and the planning and management of counter-terrorism operations. The EU police mission in Afghanistan also involved support tasks in the fight against terrorism, even though they were not mentioned in its mandate.⁵¹

2.1.5. EU counter-terrorism strategy and preventing radicalisation

In July 2005, the London attack changed the tone of the EU's terrorist narrative because, unlike a year earlier in Madrid or before that in the

49 Hillion 2014; Argomaniz 2012; Ferreira-Pereira & Oliveira Martins 2012; de Vries 2008.

50 Ferreira-Pereira & Oliveira Martins 2012, 545.

51 Ibid., 545-546.

United States, the attack was the result of so-called ‘home-grown’ jihadism. The perpetrators were born and bred in the UK – and thus also radicalised there. By the end of 2005, the Council of Ministers for Justice and Home Affairs adopted the *EU Counter-Terrorism Strategy*⁵², which in practice brought together the previous initiatives and changes under four pillars: prevention, protection, pursuit and response. Most of the measures were now aimed at countering radicalisation and recruitment.

Although the counter-terrorism strategy focused mainly on internal security of the EU, it also had a significant foreign policy dimension. With the strategy, the EU began to build a more proactive attitude towards international security. In practice, it meant that the Union linked its broader external agenda more closely to the objectives of counter-terrorism. The EU considered it an obligation to export and support democratic development, the principles of good governance, education and economic well-being outside the EU as well. While the Member States themselves have internally taken care of tasks such as intervening in radicalisation, the EU has been more clearly an independent actor in external relations. For example, the EU has attempted to prevent radicalisation by ‘exporting’ common standards and proven practices already tested in the Member States. Although the Member States have still been able to act as implementing partners when executing, for example, P/CVE projects in third countries, this has often at the very least involved the coordination, and possibly also funding, of the activities of the Member States by the EU.

2.2. EMPHASISING SECURITY ISSUES AND THE INTERNAL-EXTERNAL SECURITY NEXUS

2.2.1. Reforms introduced by the Lisbon Treaty

The entry into force of the Lisbon Treaty in 2009 reformed the EU’s institutional structures and decision-making system and brought about significant changes in the EU’s external relations. These extensive changes also had a significant impact on the EU’s counter-terrorism activities – and on their external dimension in particular.

One of the key objectives of the Lisbon Treaty was to improve horizontal coherence – between the various EU policies in general, and in the EU’s external action in particular. The treaty represented an attempt to open up and harmonise the decision-making structure, which prior to the Lisbon Treaty was based on three separate pillars. This involved breaking up the so-called third pillar, where a substantial part of internal

⁵² Council of the European Union 2005.

security issues had been dealt with in a largely intergovernmental setting. Most areas of Justice and Home Affairs became subject to the Community method, in which the Commission takes initiatives, the Council decides by a qualified majority and the European Parliament acts alongside the Council as a co-legislator on an equal footing. This reform opened the door for the ‘mainstreaming’ of internal security issues and their integration into other policy areas.⁵³

By contrast, the highly intergovernmental CFSP and CSDP remained a largely separate sphere in EU decision-making. Nevertheless, with the Lisbon Treaty, attempts were made to reduce the boundaries between the CFSP/CSDP and other areas of EU external action as well as between external and internal affairs through a number of key reforms.⁵⁴ Firstly, the High Representative of the Union became a link between the Council of the European Union and the European Commission, as he/she chairs the Foreign Affairs Council and supports the work of the Member States, but is at the same time also one of the Vice Presidents of the Commission. To support the High Representative, the European External Action Service was created. It brought together staff from the European Commission’s Directorates-General for external relations, the Council Secretariat and the Member States’ national administrations. Together, these reforms were expected to facilitate coordination between different policy areas, although in practice, the task was identified as extremely difficult from the outset.⁵⁵ The various ‘turf battles’, both within the EEAS and between it and other EU bodies, strongly characterised the early days of the EEAS. Nonetheless, the establishment of the EEAS enabled the wider integration of the counter-terrorism objectives into the EU’s external aid programmes, which the EEAS is involved in managing alongside the Commission.⁵⁶

The Lisbon Treaty also brought with it a number of changes directly related to the EU’s external action on counter-terrorism. These changes strengthened the role of the CFSP and the CSDP in counter-terrorism activities. Firstly, the Treaty on the Functioning of the European Union contains Article 215, which allows the EU to impose measures restricting economic and financial relations, i.e. sanctions not only on one or more third countries, but also on natural or legal persons, groups or non-state entities. This article replaced the legal basis previously used by the EU for

53 See e.g. Argomaniz 2011, 113.

54 See e.g. Sellier 2018, Argomaniz 2011.

55 See e.g. Renard 2012.

56 Loeser 2017, 63.

similar purposes, based on several articles, and transformed the sanctions on terrorism more clearly into a CFSP instrument.⁵⁷

At the same time, the Lisbon Treaty reinforced the nexus between the CSDP and the fight against terrorism, which had been referred to in EU documents ever since the early 2000s.⁵⁸ Article 43 of the Treaty on European Union defines the tasks of the CSDP as follows: ‘The tasks referred to in Article 42(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.’ This article introduced the link between the CSDP and counter-terrorism into the EU’s primary law for the first time. On this basis, the EU set up the first CSDP missions and operations, whose mandate explicitly included counter-terrorism tasks and objectives, even though none of them focus solely on counter-terrorism activities.

2.2.2. Solidarity clause and mutual assistance clause

The Treaty of Lisbon also introduced the solidarity clause (Article 222 of the Treaty on the Functioning of the European Union) and the mutual assistance clause (Article 42.7 of the Treaty on European Union). While the solidarity clause – adopted in part by the European Council already in 2004 – specifically focuses on a case where a Member State would face a natural or man-made disaster or a terrorist attack, the mutual assistance clause refers to an armed attack on the territory of a Member State. In such a situation, other Member States are obliged to provide assistance to the affected Member State ‘by all the means in their power, in accordance with Article 51 of the United Nations Charter’. However, the clause stresses that it ‘shall not prejudice the specific character of the security and defence policy of certain Member States’ and that the related commitments ‘and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation’.

In practice, the solidarity clause is considerably more specific than the mutual assistance clause. In addition, a separate Council Decision was adopted in 2014 on implementing arrangements under the solidarity clause⁵⁹. It shows that an individual Member State can only invoke the

⁵⁷ See Hillion 2014.

⁵⁸ Ibid.

⁵⁹ Council of the European Union 2014b.

solidarity clause when it, ‘after having exploited the possibilities offered by existing means and tools at national and Union level, [...] considers that the crisis clearly overwhelms the response capabilities available to it’. As far as the solidarity clause is concerned, it is also significant that it assigns a key role for various EU actors: its implementation is coordinated by the Presidency of the Council, while the Commission and the High Representative work together to identify the instruments which contribute to a response to the crisis and put forward proposals for possible exceptional measures. So far, the solidarity clause has not been activated once. On the other hand, the emergency authorities in the Member States are already engaged in far-reaching cooperation relevant to the scope of the clause. The clause does not have an unambiguous external dimension – despite the role of the High Representative and the Commission – as the clause limits the scope of possible assistance to the territory of the affected Member State.⁶⁰

Unlike the solidarity clause, the mutual assistance clause does not provide any role for EU actors and is, in practice, implemented through bilateral arrangements between the Member State requesting assistance and the Member States providing it. No more detailed decisions on its implementation have been taken, and the clause was long considered to be a dead letter of the Lisbon Treaty. However, France requested the activation of the mutual assistance clause as a result of the 2015 terrorist attack in Paris, and the other Member States unanimously informed France of their support.

The French example proved that the definition of the mutual assistance clause for armed aggression is extensive and therefore also extends to an attack by non-state actors – in this case, a terrorist group. At the same time, France’s request for assistance strongly linked the mutual assistance clause with the external dimension of counter-terrorism. France requested assistance from other Member States either directly for the armed combat against ISIS in Syria and Iraq or for other ongoing international operations, from which it hoped other Member States could free up French troops for other purposes. A total of 14 Member States responded to France’s request for assistance with concrete measures.⁶¹

2.2.3. Internal–external security nexus

The changes brought about by the Lisbon Treaty opened the Justice and Home Affairs pillar and integrated the new internal security framework Freedom, Security and Justice (FSJ) more closely into other EU

60 Parkes 2015.

61 Puglierin 2016, 2–3.

decision-making. At the same time, the agreement emphasised the need to increase coherence in the EU's external action and between external action and other EU policies. The need to strengthen the relationship between internal and external security policies, in particular, came up in several EU documents from the beginning of the 2010s. In June 2011, the Council published its conclusions on improving the links between the internal and external aspects of the fight against terrorism. The conclusions highlighted particularly the importance of coordination between the EU institutions to ensure coherence in the Union's counter-terrorism activities.⁶²

The links between the CSDP and internal security policies and actors have also been under closer scrutiny, and in order to strengthen them, a specific roadmap was published in 2011.⁶³ Its implementation has since been monitored in separate reports. The roadmap proposed measures in five different areas: comprehensive situational awareness and intelligence support to the EU; exchange of information and mutual support; improving decision-making mechanisms; improving cooperation in planning EU external action; and human resources and training. In particular, the roadmap focuses on relations, cooperation and information exchange between EU actors, with the aim of breaking the boundaries between different actors and policy areas and creating cooperation practices.

In the 2010s, the link between internal and external security has been further emphasised by the security threats faced by the EU. In particular the issues related to foreign fighters, the diverse terrorist attacks in Europe (Paris 2015, Brussels 2016, Nice 2016, Berlin 2016 and Barcelona and Cambrils 2017) and the increased awareness of hybrid threats have had a strong impact on the threat perceptions in the EU. The highly securitised refugee crisis in 2015 has also notably increased the political pressure to strengthen links between internal and external security. All this is strongly reflected in the idea of a Security Union promoted by the European Commission and launched in spring 2016 in the aftermath of the terrorist attack in Brussels. Under the concept of the Security Union, the Commission aims to strengthen and harmonise its own security agenda published in 2015⁶⁴ (*The European Agenda on Security*) and enhance coordination between EU security policy actors and actions. At the same time, the idea of the Security Union also reflects the Commission's efforts to strengthen its own role in the area of security policy, which is seen as increasingly important.

62 Council of the European Union 2011.

63 European External Action Service 2011.

64 European Commission 2015a.

Counter-terrorism – including its external dimension – is one of the key pillars of the Security Union, and in its communication on the Security Union, the Commission bundled together both the initiatives it envisaged to combat terrorism and its proposals for activities to be undertaken by other EU actors (including the Member States). In the context of external action, the Commission highlighted in particular the completion and deepening of the political dialogue with the EU’s Mediterranean neighbours and the implementation of the measures developed in the context of the Western Balkans counter-terrorism initiative. The Commission also raised the issue of cooperation with third countries on the movement of firearms and explosives and the fight against terrorist financing.

2.2.4. Global strategy and the security of the EU

The internal–external security nexus was also central to the 2016 global strategy⁶⁵, which replaced the 2003 Security Strategy as a key guideline for EU foreign and security policy and other external action. Although many EU Member States had long been in favour of formulating a new foreign and security policy strategy, only the security challenges and crises that the EU faced in the early 2010s made the more sceptical Member States agree to the project. In the end, the Global Strategy was prepared under the guidance of Federica Mogherini, who became the High Representative in 2014.

The Global Strategy consists of four broader components. In the first part, the strategy defines the EU’s interests in which it includes peace and security, prosperity, democracy and a rules-based global order. The second part of the strategy lists the principles of the EU’s external action, namely unity, engagement, responsibility and partnership. The third and most important part of the strategy identifies the five priorities of the EU’s foreign and security policy: 1) the security of the EU, 2) state and societal resilience in the eastern and southern neighbourhood of the EU, 3) an integrated approach to conflicts and crises, 4) cooperative regional orders and 5) global governance in the 21st century.

It is precisely the EU’s own security that has become a key priority in the Union’s foreign and security strategy, and this further emphasises the link between internal and external security. In the section dealing with the security of the EU, the Global Strategy stresses that the EU must address ‘challenges with both an internal and an external dimension, such as terrorism, hybrid threats, cyber and energy security, organised crime and external borders management’. In this context, the strategy also emphasises the cooperation between internal and external security

65 European External Action Service 2016.

actors by stating that ‘[f]or instance, Common Security and Defence Policy (CSDP) missions and operations can work alongside the European Border and Coast Guard and EU specialised agencies [...]’.

The strategy also includes a more detailed section on counter-terrorism, which encourages, in particular, greater exchange of information and intelligence between the Member States and EU agencies and highlights the importance of the work to prevent radicalisation. As regards external action on counter-terrorism, the strategy states that the EU will continue to develop ‘[...] human rights-compliant anti-terrorism cooperation with North Africa, the Middle East, the Western Balkans and Turkey’ and will ‘work with partners around the world to share best practices and develop joint programmes on countering violent extremism and radicalisation’.

The external fight against terrorism is strongly present – either explicitly or implicitly – in the other priorities outlined in the Global Strategy as well. In addition to guaranteeing the EU’s own security, strengthening the state and societal resilience in the EU’s neighbourhood is the second key priority of the Global Strategy.⁶⁶ It is clear that terrorism is one of the challenges to which the EU wants to make its neighbouring countries more resilient. The global strategy can therefore be said to strongly support the mainstreaming of counter-terrorism into all EU foreign policy and external action. At the same time, the EU also stresses the role of policies and actions other than those aimed at countering terrorism in increasing resilience to terrorism in neighbouring regions. The Global Strategy particularly emphasises support for inclusive and accountable governance, ‘[...] critical for the fight against terrorism, corruption and organised crime, and for the protection of human rights.’

References to terrorism have also been included in the three other priorities. With regard to the integrated approach, the global strategy stresses that ‘[t]he EU must be able to respond rapidly, responsibly and decisively to crises, especially to help fight terrorism.’ This is clearly a reference to the link between the CSDP and the fight against terrorism. As far as regional partnerships are concerned, the threat of terrorism and cooperation to counter it are particularly highlighted in the sections on the Mediterranean region, the Middle East and Africa, but also in relation to the transatlantic cooperation and relations with Central and South Asia. With regard to global governance, the strategy notes that the EU is deepening its dialogue with the UN on countering terrorism and is developing extensive partnerships with states, regional organisations, civil society and the private sector in order to counter violent extremism and the financing of terrorism.

66 See e.g. Wagner & Anholt 2016; Juncos 2017; Bendiek 2017.

2.2.5. Development of EU crisis management missions and operations

On the basis of the global strategy, the EEAS published in 2016 its own thoughts on the links between the CSDP and the Area of Freedom, Security and Justice under the heading ‘From strengthening ties between CSDP/FSJ actors towards more security in Europe’.⁶⁷ The three priorities of the EEAS document were to improve the EU’s situational awareness and exchange of information within the EU, operationalise the internal–external security nexus, and increase convergence and synergies between the EU’s civilian and military activities. Overall, the proposals put forward in the EEAS paper represent institutional fine-tuning which should help EU actors in different policy areas and with different mandates to better cooperate on complex security challenges. Although the measures proposed by the EEAS seem to be small-scale and technical in many places, their importance in the EU context should not be underestimated, especially as there is increasing political momentum to strengthen the link between internal and external security. Even small measures can create new approaches and practices, which can have an impact on the relationship between the CSDP and the fight against terrorism.

Many CSDP missions and operations established in the 2010s provide examples of activities which permeate, at least to a certain extent, the division between internal and external security. One of the most concrete examples is the military CSDP operation EUNAVFOR MED, whose main task is to identify and dismantle smuggling networks operating in the Mediterranean which specialise in migrant trafficking. The mission also has support tasks, including training the Libyan coast guard and navy and monitoring the UN ban on arms exports on the high seas off the coast of Libya.⁶⁸

The strong link between internal and external security is also reflected in the establishment of a separate Crime Information Cell within EUNAVFOR MED – as proposed by the EEAS in 2011 – where experts representing different EU agencies enhance the collection and exchange of information on criminal activities in the Mediterranean region, such as human smuggling and trafficking, issues related to the implementation of the arms embargo on Libya, illegal oil exports from Libya, criminal activity affecting the mission’s own security as well as terrorism.⁶⁹

The development of and emphasis on the links between the CSDP and FSJ actors will likely be the development which will most strongly steer

67 Council of the European Union 2016a.

68 See e.g. Tardy 2015; Blockmans 2016.

69 Europol 2018.

the role of the CSDP in the fight against terrorism in the years to come. At the same time, the deepening internal–external security nexus can increase the importance of counter–terrorism activities in the field of CSDP at large. This evolution was reflected in the process of the strategic review of CSDP civilian missions carried out as part of the implementation of the Global Strategy. The process led to the conclusion of the so–called *Civilian CSDP Compact* in November 2018. In addition to the traditional tasks of civilian CSDP missions (policing, the reinforcement of the rule of law and civilian administration in fragile circumstances or conflict situations), it highlighted more clearly the need for the civilian CSDP to be able to strengthen the EU’s response to the complex security challenges the Union faces, such as ‘irregular migration, hybrid threats, cybersecurity, terrorism and radicalisation, organised crime, border management and maritime security, as well as preventing and countering violent extremism’.⁷⁰ On the other hand, civilian CSDP missions have long been affected by varying interest and lack of resources among Member States. The emphasis on the link between internal and external security can also be a challenging development for CSDP missions and operations, as it has already led – and may continue to lead – to stronger competition between different EU actors who see it as an opportunity to expand their own field of activity and competence beyond their traditional areas of expertise.

70 Council of the European Union 2018.

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3. ROLES AND RESPONSIBILITIES IN THE EU'S EXTERNAL COUNTER-TERRORISM

- The strategic guidelines for the EU's external action on counter-terrorism are set by the European Council and the Council of Ministers, supported by the Council's working groups focusing on counter-terrorism. The European Counter-Terrorism Coordinator also operates within the Council Secretariat. The external dimension of counter-terrorism is thus primarily driven by the Member States.
- The Counter-Terrorism Unit under the EEAS is largely responsible for coordinating the implementation of decisions. Depending on the context, the various Commission DGs, such as the DG for International Cooperation and Development, can also implement decisions.
- The terrorism situation in the EU is monitored and analysed by Europol and the Intelligence center within the EEAS. They also support the EU's counter-terrorism decision-making and implementation. Cooperation between the Member States and operational partners in terrorism-related judicial processes is supported by Eurojust. Within their mandate, the agencies may negotiate cooperation agreements with third countries.
- Direct operational work related to external counter-terrorism is limited and carried out either through CSDP operations or through separate working arrangements by specific EU agencies. For example, Europol supports terrorism-related criminal investigations, Frontex can launch operations to tackle cross-border crime, including terrorism, and Cepol contributes to counter-terrorism-related law enforcement capacity-building also outside EU borders.

The field of EU counter-terrorism is broad. It comprises a complex structure of actors and decision-making mechanisms. One reason for this is that, over time, counter-terrorism work has deliberately been mainstreamed, as described in the first chapter of the report. It means that the fight against terrorism has become an issue that is taken into account in all relevant EU policy sectors, including those belonging to external action. Counter-terrorism is therefore a cross-cutting theme which can flexibly cross administrative boundaries, although it is sometimes also hindered by them. This flexibility makes it possible for different actors to stretch the limits of their competences and to assume more or less prominent roles on a case-by-case basis. In many cases, this can be a good thing, as at best it enables a more efficient division of labour and increases ownership. On the other hand, the EU's counter-terrorism structures have also been criticised for overlaps and unclear mandates.⁷¹

Many policy areas have been undergoing a strong change in recent years. In particular, the role of the EU's internal security agencies has been increased in the Union's external action. The role of development cooperation in counter-terrorism activities has also grown notably, as the EU has contributed significantly more to P/CVE projects than before.

The differences between policy areas related to the EU's external action on counter-terrorism are important because different policy areas involve different actors and decision-making structures and mechanisms, and their objectives and practices are anchored in partly separate strategic frameworks. However, despite the diversity of actors and policy-making cultures, it should be noted that the broader strategic guidelines and conceptual frameworks for combating terrorism discussed in the previous chapter are equal for all. Moreover, at the grassroots level in the target countries, it does not necessarily have a great deal of significance in which policy area the decisions have been taken and to which financing instrument they are related.

This chapter deals with the roles and decision-making mechanisms related to the EU's counter-terrorism activities, focusing in particular on the Union's external action on counter-terrorism. The strategic guidelines for the CFSP and CSDP are defined by both the European Council and the Foreign Affairs Council. The High Representative is in charge of the implementation of the external fight against terrorism, and the administrative core is the EEAS's 'CT Division', which is directly supported by advisors on counter-terrorism and security in EU delegations. The division's task is to complement and coordinate the activities of the

71 European Parliament 2017, 48.

Member States, the Commission and the EU's internal security agencies in the fight against terrorism.

This work is supported by separate EU agencies, particularly Europol. Europol's ECTC maintains situational awareness regarding terrorism with the aid of information received from the authorities of the Member States. Europol also collects and records information on cross-border crime and terrorism as well as other related suspected crimes and networks. The overall picture is complemented by the intelligence bodies within the EEAS, most of all Intcen, which collects intelligence data and acts as an evaluator of strategic intelligence.⁷² Other internal security agencies also play a role in collecting and analysing information and in maintaining shared databases.

The Office of the EU Counter-Terrorism Coordinator (CTC), located in the Secretariat of the Council of the European Union, is also an important counter-terrorism actor. It acts as an observer of the implementation of joint agreements, strategies and actions of the Member States. Furthermore, it monitors international trends related to terrorism and takes initiatives in relation to counter-terrorism activities. In external relations, however, the role of the CTC is 'to improve communication between the EU and third countries'.⁷³ CTC can therefore well be referred to as the 'ambassador' or 'mediator' in the fight against terrorism, being actively involved in counter-terrorism dialogues with third countries.

In addition to the actual agencies, the EU has also set up specific tools which play a role in the fight against terrorism. For example, an attempt has been made to increase EU expertise in the P/CVE field by establishing the *Radicalisation Awareness Network* (RAN). It aims to bring together people involved in the prevention of radicalisation – both public authorities and NGO employees – and to facilitate interaction and exchange of information between them. The main part of RAN's work focuses on improving the exchange of information between EU Member States' own practitioners, but it has also been involved in events with third countries to report on best practices and experiences of P/CVE work in Europe.

72 Council of the European Union 2017b, 3.

73 Council of the European Union website 14 January 2020.

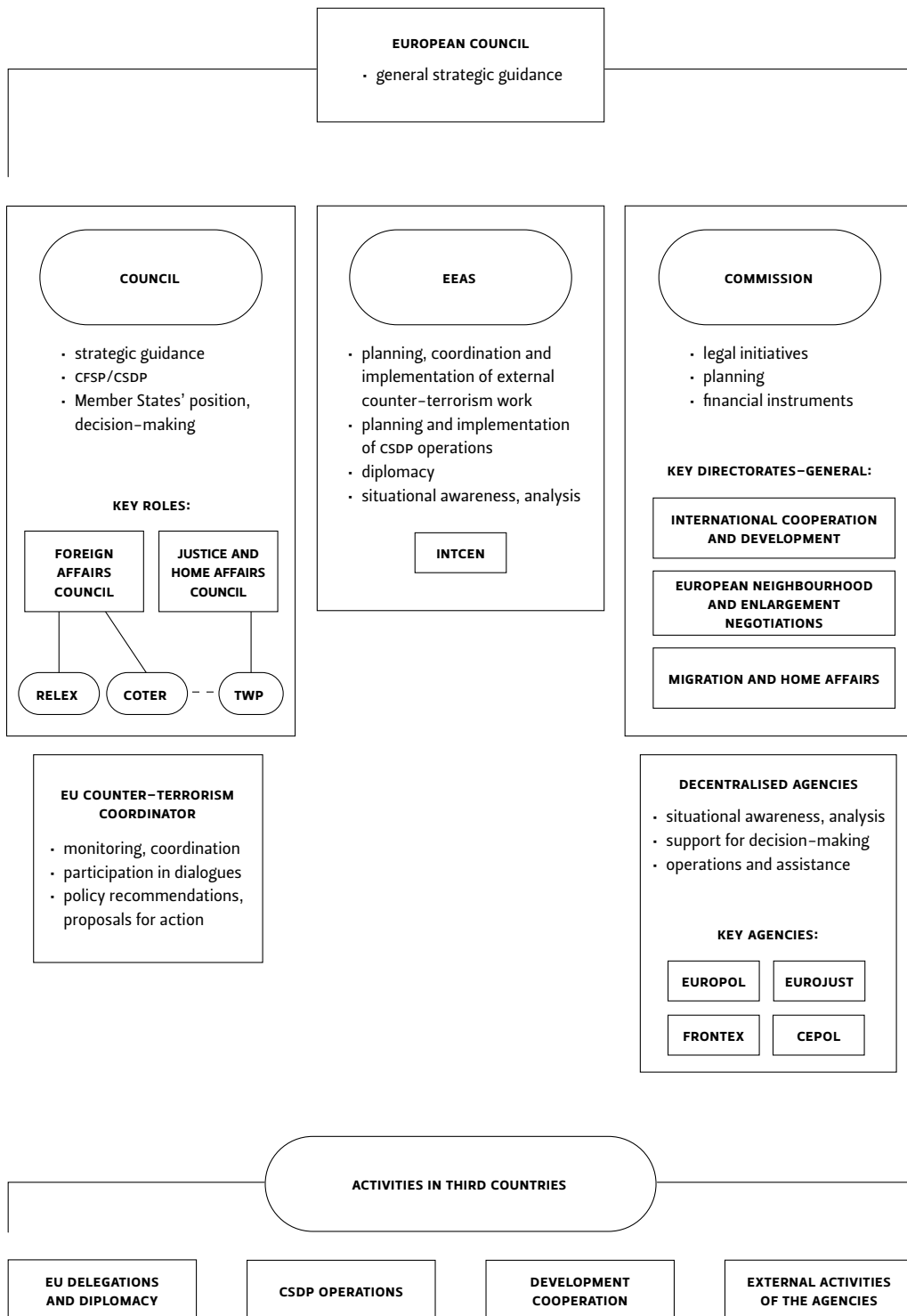


Figure 1: Political EU structures related to the external fight against terrorism

3.1. EUROPEAN COUNCIL AND COUNCIL OF MINISTERS

The strategic objectives and guidelines for EU action against terrorism, in terms of both internal security and external action, are set in the European Council. The European Council is composed of the heads of states of the Member States and the President of the Commission. The Council of the European Union is responsible for translating the general guidelines and strategic lines into decisions and more detailed policy programmes and framework decisions affecting the laws of the Member States. In the area of CFSP, the Council takes the decisions that are necessary for defining and implementing it on the basis of the general guidelines laid out by the European Council.

The Foreign Affairs Council (FAC) plays a key role in making decisions on CFSP and other external relations policies. It is composed of foreign ministers of the Member States and, where necessary, supplemented by the Ministers of Defence, Development Cooperation or Foreign Trade. The FAC is also responsible for CSDP, development cooperation, trade relations and humanitarian aid.⁷⁴ In addition to the actual ministerial meetings, preparatory work is being done particularly in COREPER, the Political and Security Committee (PSC) and in various working groups. In relation to external action on counter-terrorism, the main working groups of the FAC include COTER (Working Party on Terrorism), RELEX (Working Party of Foreign Relations Councils) and COCOP (Working Party on Application of Specific Measures to Combat Terrorism). As internal and external security are linked in many ways, these working groups can sometimes also meet with the TWP (Terrorism Working Group), which operates under the Justice and Home Affairs Council. The working group comprises Member State authorities, such as police representatives.

As internal and external security increasingly overlap, regular joint meetings have been organised between COTER and TWP, and even the idea of merging these two working groups has been floated. There has also been an attempt to intensify the links between the Political and Security Committee (PSC) and the Standing Committee on Internal Security (COSI), but this has proved to be a challenging task in many ways. Because a large number of the working groups are led by the Member State holding the Presidency of the Council, the agenda and importance of the working groups may vary depending on the interests of the Member State in question. A skilled president can add value to the coordination of the Member States' positions, which will facilitate the operation of the EEAS.

74 Rehr 2017, 51–52.

3.1.1. Counter-Terrorism Coordinator in the EU

A speciality of the institutional structures related to the fight against terrorism is the EU Counter-Terrorism Coordinator (CTC). Gilles de Kerchove has held this office since 2007. The official role of the CTC is to monitor the implementation of the strategic guidelines on countering terrorism and to assess their effectiveness.⁷⁵ In external action, the powers of the CTC are considerably narrower, as improving communication with third countries is defined as the coordinator's main task. Over the years, however, the role of the CTC in external action has in practice grown much broader than how it was originally defined.⁷⁶ The CTC has become a sort of 'ambassador' in the fight against terrorism, actively circulating in third countries and taking part in CT dialogues with different partners.

The position of the CTC is unusual because of the separation of the coordinator from other decision-making structures. The tasks of the CTC cover both the monitoring of the EU's internal counter-terrorism work and the external representation of the EU in the field of counter-terrorism. The institutional location in the Council Secretariat is justified in that it makes the role of the CTC as a civil servant specifically appointed by the Member States clearer. The CTC can therefore be regarded as primarily working directly for the Member States rather than for the Commission or the External Action Service. This makes it possible for the CTC to look at the fight against terrorism in the EU irrespective of the political trends in the EU institutions. However, as the CTC is active in diplomacy towards third countries, the coordinator can take initiatives on counter-terrorism measures. For example, the CTC can propose training for prison officers in one of the target countries to prevent radicalisation, in which case for instance the EEAS or the FPI can take responsibility for the task, even if they are not subordinate to the CTC. This reflects the fact that the EU's counter-terrorism structures have a kind of 'grey zone' in which various administrative actors can move on a case-by-case basis and flexibly, independently of the normal institutional hierarchies and mandates.⁷⁷

3.2. COMMISSION

The European Commission draws up legislative initiatives to be decided on by the Council of the European Union and the European Parliament and is largely responsible for managing the EU budget. However, the

75 Council of the European Union 2004.

76 Mackenzie et al. 2013, 325-328.

77 E.g. European Parliament 2017, 52.

Commission plays a significantly smaller role in CFSP and CSDP compared to the other policy areas. Nevertheless, as the CFSP is not separate from the rest of EU external action, the Commission seeks to ensure that instruments and actions which are not administratively part of the CFSP are coherent with CFSP activities and CSDP missions and operations. Several of these instruments are managed by Foreign Policy Instruments (FPI), which is part of the Commission, operates under the authority of the High Representative and works alongside the EEAS. The EEAS instruments such as the Crisis Platform and the Political Framework for a Crisis Approach also work in order to bring all the relevant services of the Commission to support decision-making related to the CSDP. With regard to the instruments used in the EU's external relations, the Commission has the power of decision over the following:

- Instrument contributing to Stability and Peace (ICSP),
- Instrument for Pre-Accession Assistance II (IPA),
- European Instrument for Democracy and Human Rights (EIDHR),
- European Neighbourhood Instrument (ENI),
- European Development Fund (EDF) and
- The EU Emergency Trust Fund for Africa (EUTF).

Instruments can also be used to implement projects related to counter-terrorism. In 2018, their focus was divided as follows:

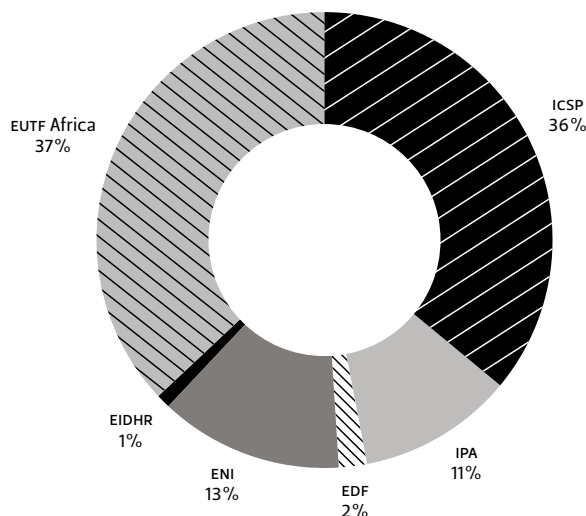


Figure 2: Proportion of instruments used to combat terrorism in 2018 (European Commission 2019d, 1-2.)

For example, development projects related to countering terrorism or violent extremism can be funded with several instruments depending on the geographical region in which the project is carried out. In the Western Balkans, projects can be implemented, for instance, within the framework of the IPA, while the EUTF is available in Africa. On the other hand, the projects may also be related to research activities: For example, the Counter-Terrorism Monitoring, Reporting and Support Mechanism (CT MORSE) project monitors and supports ICSP actions in countering terrorism and violent extremism in third countries. Regardless of the financial instrument, however, the aim is to involve key officials related to counter-terrorism and P/CVE in the preparation of projects, in external relations particularly from the EEAS.

The Commission also covers several policy areas which are of direct or indirect importance for the EU's external action on counter-terrorism. The Commission's work directly related to counter-terrorism is divided between several different Directorates-General, partly due to the traditional division into internal and external security, but more broadly also due to the cross-cutting nature of the subject. Many areas of internal affairs in which the Commission is active have increasing importance for external action and relations with third countries. These include internal security, migration management and energy and climate policy. The Commission is also a significant player in enlargement and neighbourhood policy as well as development cooperation, which remain mostly in the hands of the relevant Commission Directorates-General, with the EEAS playing a complementary role. All these areas are of importance in terms of the EU's external action on counter-terrorism. In addition, it can be considered that international trade policy and humanitarian work – areas in which the Commission is a crucial actor – also have an indirect impact on terrorism.

One of the tasks of the Commission, directly related to counter-terrorism, is to deal with agreements with third countries as regards the exchange of personal data. However, the European Parliament must approve the agreements before they come into force. The agreements provide a legal basis for cooperation on the exchange of intelligence gathered on cross-border terrorist networks. In the past, agencies could conclude these agreements directly with third countries, but in 2017, the powers were delegated to the Commission. Now, therefore, the Commission concludes the agreements that are most extensive in nature. However, the agencies may continue to agree directly on cooperation that does not include the exchange of personal data.

3.3. EUROPEAN EXTERNAL ACTION SERVICE

As a body, the European External Action Service (EEAS) is functionally independent from the Council and the Commission.⁷⁸ Its mandate is to act as an EU diplomatic body and to improve institutional coherence by responding to the challenges posed by administrative overlap, insofar as it relates to the EU's actions in terms of external relations. In the field of counter-terrorism the task to coordinate actions is especially important. The internal security agencies, such as Europol and Frontex, many Commission Directorates-General, and the Member States themselves have many counter-terrorism activities outside the EU's borders. Coordination between different actors is necessary in order to avoid duplication or contradictions. The EEAS is therefore in charge of consulting the Commission on all matters relating to the Union's foreign policy.⁷⁹ It thus serves to a large extent as a counter-terrorism coordinator towards third countries. The EEAS also plays a key role in the planning and implementation of missions and operations within the CSDP framework. It also contributes to the preparation of activities in other policy areas, such as development cooperation.

The EEAS is headed by the High Representative, who is also Vice-President of the Commission. Placing the High Representative between the EEAS and the Commission was hoped to build bridges between the institutions and to increase the coherence of EU action.⁸⁰ At the same time, the High Representative also steers the CFSP, where he/she has the right of initiative in the same way as the Member States do. He/she also chairs the Foreign Affairs Council (FAC).⁸¹ The High Representative's role as Commissioner and Vice-President of the Commission should enable the coordination of both external and internal policy actions. However, in the case of internal policy measures, they must have a strong foreign policy dimension in order for the High Representative to become involved.

The role of the EEAS in the fight against terrorism is steered by Council conclusions from 2015 and 2017, which guide the work of both the Commission and the EEAS. Foreign policy objectives currently include:

- Strengthening cooperation, in particular with the countries of North Africa and the Middle East, the Western Balkans,

⁷⁸ Council of the European Union 2010, Article 1(2).

⁷⁹ Council of the European Union 2010, Article 3(2).

⁸⁰ Sellier 2018, 132.

⁸¹ Articles 18(2-3), 22(2), 27(1) and 30(1) TEU.

Turkey, the Sahel region and the Horn of Africa. Increasing political outreach through counter-terrorism dialogues.

- Multilateral counter-terrorism coordination. In particular, the EU supports the implementation of the UN Global Counter-Terrorism Strategy and actively participates in the Global CT Forum (GCTF).
- Outlining and implementing regional and country-specific counter-terrorism strategies and action plans. For example, the EEAS has drawn up a foreign terrorist fighter strategy for the conflicts in Syria and Iraq, a security and counter-terrorism strategy for the EU and Pakistan, and a development and security strategy for the Sahel region.
- Strengthening EU action on thematic key issues. These include, in particular, P/CVE, responding to terrorist content online and practices related to financing terrorist activities.
- Supporting the mainstreaming of the fight against terrorism into the Union's foreign policy. It draws attention to the link between development cooperation and security.
- Programming of EU capacity-building measures to support counter-terrorism in third countries and coordinating with key partners.⁸²

The role of the EEAS in coordinating the multidimensional field of counter-terrorism is emphasised between the lines. The role of the EEAS is visible in concrete terms, for example, in the work carried out in EU delegations, the running of which is the responsibility of the EEAS. The delegations provide key information directly from the target countries and, in particular, the counter-terrorism and security advisors assigned to delegations serve as an important link between EU decision-making bodies and key decision-makers and authorities in the target countries. However, the actual counter-terrorism work is largely executed by other actors. Internal security services, the authorities of the Member States and third countries or other partners take care of a large part of the allocation of resources, implementation and actual work at the grassroots level.

The EEAS also plays a role in direct decision-making. For example, the High Representative may appoint officials to chair Council working groups and preparatory committees.⁸³ In the fight against terrorism, the relevant working groups are those which, apart from other issues, also deal with terrorism, such as geographical working groups. In addition to

⁸² European Union External Action website. See also the Council of the European Union 2017b.

⁸³ Council of the European Union 2010, Article 4(4).

these, however, there are also working groups focusing particularly on counter-terrorism, such as COTER and TWP, but their chairmanship has remained with the representative of the rotating presidency. However, the EEAS also supports and participates in these working groups.

3.3.1. Counter-terrorism in EEAS structures

In the External Action Service, officials focusing on combating terrorism are located in their own counter-terrorism unit, also known as the CT division. The unit has grown considerably in recent years. In 2012, it employed three people, while in 2018 there were 12 people, of whom 11 were seconded national experts from the Member States, mainly from the fields of law enforcement or external relations.⁸⁴ The task of the unit is to support the High Representative in the fight against terrorism in EU foreign and security policy. The division participates in the formulation of strategies, risk assessments and policy outlines and works closely with the Directorate-General for Home Affairs, the Directorate-General for Justice and Development and the FPI in particular. In addition, the division also works closely with key agencies, in particular Europol and Eurojust, in terms of the external dimensions of their activities.⁸⁵ The mainstreaming of counter-terrorism has also led to the recruitment of counter-terrorism experts in other units.⁸⁶ The CT Division is also responsible for organising specific CT dialogues. Approximately ten dialogues take place each year, involving relevant EU actors in counter-terrorism and external action, such as the aforementioned Directorates-General, agencies and often also the EU's Counter-Terrorism Coordinator.

In addition to Brussels, a significant proportion of EEAS officials dealing with counter-terrorism are assigned to EU delegations in different countries in a special role as Counter-Terrorism and Security Advisers. Their task is to serve as EEAS liaison officers for the authorities of the target countries, relevant international actors and potential partners. Advisors have also been considered to bring particular added value to external relations in the field of security, since the traditional focus of delegations has been on development policy rather than counter-terrorism or other security issues.⁸⁷

Under the EEAS and the High Representative of the Union for Foreign Affairs and Security Policy, there are also both civilian and military intelligence bodies, such as the European Union Intelligence Agency Intcen,

84 Sellier 2018, 136–137.

85 European Union External Action website.

86 Sellier 2018, 137.

87 Ibid.

which collect intelligence from the Member States' intelligence and security services and maintain and analyse the security situation, including the threat of terrorism.

3.4. AGENCIES – AT THE INTERFACE OF INTERNAL AND EXTERNAL SECURITY

The European Union also has agencies with different competences and tasks. Some of them deal directly with counter-terrorism practices. These include the EU law enforcement agency Europol, the European Border and Coast Guard Agency (Frontex), and the EU Agency for Criminal Justice Cooperation (Eurojust). They contribute to the strategic and operational approach of the EU and the Member States in counter-terrorism work. An explicit role in external action on counter-terrorism is also played by the European Union Agency for Law Enforcement Training (Cepol) and the Radicalisation Awareness Network (RAN). The latter is an expert network and not as well established as agencies, but it is financed by the Internal Security Fund. Both Cepol and RAN have been founded to facilitate interaction and harmonise training and practices within the EU, but they also conduct this work to some extent in third countries. CEPOL trains police officers and law enforcement authorities in the field of counter-terrorism, i.e. it participates in capacity-building. RAN, for its part, promotes networking and exchange of information between P/CVE professionals. In addition to the ones mentioned here, many other agencies, especially those in operating areas related to security or justice, have a role that touches directly or indirectly on counter-terrorism. These include European Asylum Support Office EASO, which deals with migration, and the European Public Prosecutor's Office EPPO. However, this chapter focuses on the involvement of the most central agencies – Europol, Frontex and Eurojust – in counter-terrorism activities outside the EU's borders.

Although Europol, Frontex, Cepol and Eurojust are the agencies in the Area of Freedom, Security and Justice (in other words, the internal security of the EU), they have such competences to act also outside the EU that their activities can be regarded as a branch of external action of its own. Within the limits of their mandates, they may establish cooperation with third countries and international organisations. Cooperation may be, for example, ad hoc executive assistance (*working arrangements*) or an operational or strategic cooperation agreement that enables the exchange of information with the authorities in the target country. The exchange

of information excludes the exchange of personal data, which requires a cooperation agreement concluded by the Commission.

The powers of EU agencies in the fight against terrorism are considerably more limited than those of national authorities. In practice, they mainly participate in capacity-building through training or sharing of best practices. On the other hand, they play a notable role in forming the common European perception of the terrorism situation, as they collect information from different countries and analyse it. As discussed above, this supports the preparation and implementation of laws and other measures both in the various EU institutions and in the Member States. The most notable exception is Frontex, whose operational capabilities and capacities will be increased in border management also with regard to operations in third countries. The aim is that in 2027, Frontex will have a standing force of up to 10,000 people, which it will be able to use both internally and externally for law enforcement tasks under the mandate of the agency. Counter-terrorism was added to the tasks of Frontex in the reform of 2018–2019. The majority of the staff will consist of border guards or other relevant law enforcement authorities, but the figure also includes other staff. In the future, this is likely to have a significant impact particularly on operations under the framework of the CSDP, since some of them have border management tasks. By the time of writing, there is no certainty about what the relationship between EU agencies (above all Frontex) and CSDP operations will be like, or whether and how the former will be linked to the latter.⁸⁸ In any case, some agencies already have liaison officers in CSDP operations, which opens up better opportunities for cooperation.

Strategic decision-making in agencies takes place through the so-called policy cycle.⁸⁹ In practice, the Member States' representatives will jointly decide on the guidelines for the next five-year period. Representatives are normally officials working in the field of the agency, as in the case of Europol leading police officers, not politicians. This makes the agencies relatively independent of the EU institutions. In addition, no separate approval or guidance from the Council of Ministers is required for decisions – although the powers and tasks of the agencies are strictly defined. The agencies are also under the supervision of special joint parliamentary bodies (European Parliament and representatives of national parliaments).

88 On the relationship between Frontex and civilian crisis management, e.g. Tammikko 2019b; Parkes 2017.

89 Council of the European Union 2017a.

3.4.1. EU law enforcement agency Europol

Europol is likely the most important individual counter-terrorism agency of the EU. It collects information on investigations related to terrorism, maintains significant criminal databases and analyses data. Europol also maintains a secure SIENA network for the exchange of information between the Member States, including a separate component focusing on terrorism. The network also provides the Member States with a secure platform for the bilateral exchange of information. Since 2007, it has monitored the terrorism situation in the EU and published an annual *Terrorism Situation and Trend* report. It also draws up a threat assessment twice a year for the Council's Working Party on Terrorism (TWP). Together with Intcen, it carries out strategic analyses for COSI, which serve as a basis for policy recommendations. It also prepares special reports where necessary. For example, the EU Presidencies have often requested reports from Europol on a specific theme, such as Finland in 2019 on the extent of right-wing extremism in Europe. Although Europol is a joint EU law enforcement agency, it does not have similar law enforcement powers to what the Member State authorities do. Europol does not override the national services either. Instead, it supports them by facilitating cross-border cooperation, by building databases and an overall picture covering the whole of Europe. Each Member State's own authorities carry out the actual law enforcement work.

Europol's competences related to external action are based on cooperation agreements with third countries. Europol has an operational agreement with 17 countries outside the EU, as well as with Interpol and various EU agencies.⁹⁰ The operational agreements are the most comprehensive form of cooperation, as they enable the exchange of personal data and the sending of liaison officers to Europol. A more limited form of cooperation is based on a strategic agreement which Europol has with 13 countries. The strategic agreements do not cover the exchange of personal data, which means that it is not possible to exchange information on those suspected of crimes. This would be very important information for Europol, which is doing terrorism-related investigation and analysis. In addition to these agreements, Europol may directly negotiate ad hoc working arrangements with third countries, which allow for a wide range of cooperation, excluding, however, the exchange of personal data.

Europol's powers, resources and mandate were extended in 2016.⁹¹ The main purpose was to increase and develop activities with third countries, especially in the field of data exchange. Europol may therefore draw up

90 Europol 2019b. The UK is still included among the EU countries.

91 European Parliament and the Council of the European Union 2016.

bilateral agreements with the authorities of third countries in the same way as was done with the FBI in the United States in 2016. At the same time, however, the agreements related to the exchange of personal data were left in the hands of the Commission. This has affected Europol's activities insofar as no new operational agreements have been concluded after the change. However, this has less to do with the involvement of the Commission and more with the fact that no agreement has been reached on critical concepts and data protection issues with new countries. However, cooperation procedures have made it possible to maintain some degree of exchange of information and cooperation also with those countries that do not have an agreement.

In the fight against terrorism, Europol relies strongly on the information received from both EU Member States and operational partners. The Member States' trust in Europol is a critical factor in how well it succeeds in carrying out its tasks. The relationship between the Member States and Europol has not always been smooth. As a result, calls for more extensive exchange of information have been commonplace in the strategy reports following major terrorist attacks. Databases only function well if information is entered into them and the users have the appropriate skills to search for it. For example, in relation to the monitoring of foreign terrorist fighters, Europol maintains the 'AP Travellers' database. Although it is known that around 5,000 volunteers have left Europe for the conflict zones in Syria and Iraq, only approximately 2,800 individuals have been reported to the database by the law enforcement authorities of the Member States. In 2015, only 1,473 foreign terrorist fighters had been reported to Europol's EIS database, 90% of them by only five Member States.⁹² One explanation for the incomplete use of databases is not only the differences between the Member States and their differing attitudes towards common databases, but also the internal administrative differences within the Member States in terms of their law enforcement authorities. In many countries, the police may operate very independently at the municipal level, which creates major differences within and between different regions. In addition, there may be different structures in different sub-national regions, and for historical reasons the tasks and competences of different law enforcement bodies may vary. In Spain, for example, law enforcement is carried out largely in parallel by the Civil Guard, the national police and the police forces of certain autonomous regions.

However, cooperation has improved and the Member States' understanding of Europol's extensive capacity has increased over the years. In particular, the 2015 and 2016 attacks in Paris and Brussels gave Europol

92 Council of the European Union 2016b.

the impetus to assume a growing role in counter-terrorism. Its analysis capacity was significantly increased by the establishment of the European Counter Terrorism Center (ECTC) in 2016. Although the main task of the ECTC is to act as the central 'hub' of the EU countries in the field of counter-terrorism, it also plays a role in international cooperation and in providing expertise on terrorism, in particular as regards the financing of terrorism and the dissemination of online propaganda. There were 20 experts in Europol before the attacks, with the establishment of the ECTC increasing their number to about 100.

Structurally, the ECTC is divided into three parts, one focusing on online terrorist propaganda and recruitment, another on operational support, and the third on expert networks. Of these, the operations unit covers almost half of the staff in the office. Its task is, for example, to support investigations related to terrorism and violent extremism in the form of executive assistance to Member States or countries which have concluded an operational agreement with Europol, or to provide relevant information for investigations from its own databases. For example, in the event of a terrorist attack, the ECTC can send its partner countries investigative assistance which may not necessarily otherwise be available to them, like for example specialists on explosives. It also maintains the FACE facial recognition database on people involved in terrorist activities, the data for which it collects from, for instance, propaganda videos.

Europol's operational activities cover support to Member States or to countries or agencies which have concluded an operational agreement. The support is either direct assistance in investigations or data transfer. Europol also contributes to the fight against terrorism outside EU borders by supporting, where appropriate, other EU agencies such as Cefpol, Frontex or the delegations under the EEAS and the operations carried out in the framework of the CSDP. In 2018, the ECTC under Europol carried out 620 operations, mainly in the EU Member States.⁹³ Liaison officer activities are also a key part of a networked operating environment. Europol hosts approximately 250 liaison officers from different countries, agencies and international organisations. While the law enforcement authorities of the Member States and their powers are divided in different ways in the Member States, Europol contact persons cover not only the police but also the authorities related to customs, intelligence authorities and border control authorities. Contact persons are an important link directly to the Member States. Europol itself has liaison officers for instance in the United States, Interpol and Singapore.

93 Europol 2019c, 5.

3.4.2. Frontex, the European Border and Coast Guard Agency

Since the 2015 terrorist attack in Paris, border control has become a focal point of counter-terrorism work. After the attack, the perpetrators easily crossed the border between France and Belgium, which highlighted the role of border guards in the “pursue” dimension of counter-terrorism. Furthermore, the large numbers of migrants arriving at the EU borders in 2015 and the major problems associated with their identification and registration, as well as the return of European foreign terrorist fighters to the Schengen area from conflict zones in Syria and Iraq have acted as critical catalysts to enhance border practices and to increase border management capacities in the EU. However, border guards rely on both national and joint databases in their work, and their success in preventing terrorists from crossing the borders depends on the Member States’ authorities entering sufficient information into the shared databases.

Frontex has undergone major changes in recent years. The reform process will continue at least until 2027, when the agency is to have a standing corps up to 10,000 strong, which can be used for operational purposes also outside the EU’s borders. For the sake of comparison, currently some 5,000 experts are involved in all EU crisis management operations under the framework of the CSDP, some of which involve border control or migration monitoring.⁹⁴ In addition to increasing capacity and resources, the changes made in 2016 and 2019 extended Frontex’s tasks into the field of counter-terrorism, and Frontex now has a broader mandate to collect and process information on border crossings, and to carry out risk analyses and operations both at the external border and in third countries. Frontex is also involved in monitoring and controlling migration and border crossings by sending liaison officers to key EU delegations and CSDP missions. As Frontex has also maintained operations in the Mediterranean to control irregular migration, it has collected information on migrants and forwarded it to common databases, including for use by Europol.

The registration of border crossings, the analysis of mobility and the collection of biometric identifiers, for example in relation to migration, have been very important measures to combat terrorism and other cross-border crime. This is likely to make it at least slightly more challenging for foreign fighters and those travelling for terrorist purposes to enter the area of freedom of movement, as travelling with forged identity documents is more difficult than before. From the perspective of border control and migration management, key databases include the Schengen

⁹⁴ European Union External Action 2019, 9. The Helsinki headline goal for 1999 set the objective that the EU could use up to 50,000–60,000 people in its military operations, meaning that, in principle, the capacity for military CSDP operations exists.

Information System SIS II, the Entry/Exit System (EES), EURODAC, which collects fingerprints and biometric identifiers from asylum seekers, and the Visa Information System (VIS). With the expansion of the Frontex mandate, border guards now automatically check all passengers entering the free movement zone using databases, regardless of whether they are EU citizens or not. It can be assumed that the importance of monitoring migration and passenger movement in countering terrorism and other cross-border crime will be further emphasised in the future if the EU decides to introduce more advanced biometric data collection methods, such as facial recognition technology.

3.4.3. Eurojust, the EU Agency for Criminal Justice Cooperation

Eurojust is an executive EU agency linked to the Commission's Directorate-General for Justice, focusing on cooperation in criminal matters. Its fields of activity include, in particular, assisting prosecutors and investigators in cross-border criminal cases, such as terrorism. Eurojust does not conduct criminal investigations of its own, but rather helps the Member State authorities, for example, by collecting information on the practices of other Member States and the ongoing processes in similar criminal cases. If necessary, Eurojust may also invite representatives from different countries to exchange information. For example, if the preparation of a terrorist attack has involved action in several countries, Eurojust can act as a critical intermediary to provide the authorities in different countries with an overall picture of the course of events. In such a case, knowledge of the legal practices of other countries involved is particularly important. In this way, the authorities may decide in which country and by which offence categories the case should be brought to court. The agency also provides information on the use of European arrest warrants (EAW), simultaneous and similar cases in other countries and on penal practices and victims' point of view applicable in Member States.

In the fight against terrorism, the role of Eurojust is to bring together various actors. These include, in particular, the prosecuting authorities of the Member States and third countries, the Counter-Terrorism Coordinator, the relevant intelligence bodies, and the ECTC under Europol. However, the criminal cases on terrorism are only a small part of the agency's activities. In 2018, the agency assisted in 191 terrorist offence cases, 107 of which had already started before the statistical year. The agency was most occupied by cases of fraud, which amounted to 1,929 in the same year.⁹⁵ However, cases of terrorist offences have become slightly

95 Eurojust 2019a.

more widespread in Eurojust, which reflects the fact that the Member States rely more on it.

In addition to acting as a data exchange platform and sharing best practices, Eurojust has a relatively narrow operational role, which is particularly visible outside the EU. It may support criminal investigations related to counter-terrorism activities, for example by setting up Joint Investigation Teams (JIT). They may also operate in third countries and facilitate the issuing of European Investigation Orders and Mutual Legal Agreements with third countries. Eurojust has cooperation agreements with eleven countries outside of the EU, including the United States, Ukraine and Montenegro. In addition, six countries which have signed a cooperation agreement have appointed a liaison prosecutor for Eurojust, and 50 countries without an agreement have appointed a liaison officer for Eurojust.

Eurojust's role in the EU's external action on counter-terrorism has been significantly emphasised with regard to the phenomenon of foreign fighters in the conflicts in Syria and Iraq and travelling for terrorist purposes. Eurojust's coordinating role in the matter of foreign fighters is particularly related to prosecution and, on the other hand, to judicial practices. Depending on the Member States' legislation, foreign fighters may be accused of being members of a terrorist organisation, supporting terrorist activities, preparing for a terrorist attack, recruiting, travelling for terrorist purposes, money laundering, war crimes, crimes against humanity, receiving or providing terrorist training, or illegal participation in a foreign armed conflict. In addition, many Member States have introduced other measures with regard to foreign fighters, such as the withdrawal of citizenship, a travel ban or, for example, compulsory participation in a deradicalisation programme. The actual prosecution and the judicial process are always handled by the Member States' own authorities. However, Eurojust brings together different practices and criminal law approaches from the Member States and organises meetings with key authorities, which contributes to improving the equality between the Member States regarding criminal justice processes. In addition, Eurojust has been involved in Europol's so-called analysis projects (AP), among which, for example, AP Hydra has focused on combating and preventing terrorist crime and AP Travellers on foreign fighters.

In recent years, one of the fundamental issues relating to the "pursue" aspect of counter-terrorism – and the prosecution of foreign fighters – has been the use of battlefield evidence. It is not easy to obtain evidence of crimes committed in the battlefields in Syria and Iraq with the aid of national authorities alone, and not all Member States may have

legislative procedures that are well adapted to the fact that the evidence was collected by a non-national authority. In the light of the situation in Syria and Iraq, most of the evidence has been gathered by the US Armed Forces. Eurojust has been a kind of gateway for the United States to pass on the evidence it has collected to the EU Member States. In November 2018, Eurojust organised an international event focusing on how evidence collected from battlefields can be used for prosecution and civil law. The meeting was attended by experts from the police, prosecution authorities, armed forces and intelligence authorities as well as counter-terrorism experts from both the United States and Europe, all of whom sought to familiarise themselves with the different research tools, the use of databases, and sharing information and experiences on criminal cases.⁹⁶

In autumn 2019, Eurojust started maintaining the Counter-Terrorism Register (CTR). The initiative was underpinned by France, Germany, Spain, Belgium, Italy, Luxembourg and the Netherlands and can be considered a reaction to the terrorist attacks in Paris in 2015. The attacks helped the authorities gain a better understanding of the need for exchange of information between the Member States in criminal matters. CTR provides the Member States with information on ongoing investigations, prosecutions and convictions of terrorist offences. It makes it easier for investigating authorities to identify cross-border entities, as when entering data, the investigating authorities are immediately informed of the countries in which similar offences have been committed and with which countries they should cooperate. The use of the database may also facilitate the evaluation and development of the effectiveness and operation of legal instruments.⁹⁷ However, the register only focuses on criminal investigations, and Eurojust does not maintain a database of suspects, for instance. Such a database is maintained by Europol.

In other words, Eurojust serves as a kind of institutional memory of the Union and a databank on what types of criminal law cases and practices exist in the Member States in relation to cross-border crime and terrorism. However, it does not override the Member States' own authorities. The criminal proceedings are carried out by national authorities and the sentencing always takes place in accordance with national laws at national courts.

⁹⁶ Eurojust 2018.

⁹⁷ Eurojust 2019b.

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4. THE EU'S EXTERNAL ACTION ON COUNTER-TERRORISM: PRACTICAL EXAMPLES

- The EU's role in international diplomacy on the fight against terrorism is extremely important. By actively participating in work in international fora and through bilateral dialogues, the EU has managed to bring the concepts and standards related to terrorism and counter-terrorism closer together. This will enable broader cooperation at the operational level.
- With regard to some third countries, the EU's counter-terrorism activities go significantly beyond diplomatic tools. This is true especially of the Western Balkan countries, which are involved in the EU's enlargement policy. For these countries, the EU has a wider range of financial instruments at its disposal.
- The counter-terrorism dimension of the CSDP is most evident in the Sahel region. The region is also one of the focal points of the EU's foreign and security policy at large, and counter-terrorism is only one part of the EU's comprehensive action in the region.
- Financial investment in countering terrorism and violent extremism has increased considerably in the EU's development cooperation. There has also been a rapid geographical expansion of P/CVE projects, which leads to the question of whether all the investments actually generate added value in terms of the EU's or the local counter-terrorism action.
- The internal-external security nexus as well as cooperation between the Member States are affected in many ways by the question of foreign fighters: Jihadi networks cross the European borders, but most

Member States still want to deal with their citizens without a common EU policy.

The EU's counter-terrorism actorness is visible in four different ways in external action: 1) diplomacy, above all in the framework of the CFSP, 2) CSDP missions and operations, 3) external aid policies, including development cooperation, neighbourhood and enlargement policy, and 4) external action by the AFSJ agencies and actors. In many cases, more than one approach, or even every approach, is used at once. This is the case, for example, in the Sahel region covered by this chapter: diplomacy is conducted primarily by the EU Special Representative and delegations, and three EU crisis management operations are under way, all of which are, in different ways and to different degrees, responsible for developing the counter-terrorism capabilities of local authorities. The Sahel region also hosts liaison officers from EU agencies, making the link to the fourth area of external action. Finally, within the framework of development cooperation, several P/CVE projects are being implemented in the Sahel region. Although the fight against terrorism is one of the priorities of EU action in the Sahel region, at the same time, it is only one part of a much larger foreign and security policy effort. As the report also points out, supporting economic development, good governance, education and human rights plays a role in the fight against terrorism, although it has not been specifically identified as being part of the EU's counter-terrorism work.

The objective in this chapter is to analyse counter-terrorism cases in such a way that the strategic objectives discussed in the second chapter and the roles and administrative structures discussed in the third chapter are illustrated by examples. The main focus is on the use of EU counter-terrorism capacities in external action, the role and, to a lesser extent, the impact of the EU in the fight against terrorism, and the relationship of counter-terrorism with the wider EU external security strategy. The practical examples also aim to illustrate the ongoing processes related to the field of counter-terrorism: the deepening internal-external security nexus, and the significant increase in the use of development policy tools for countering terrorism.

The first of the cases selected for examination concerns EU involvement in international diplomacy in the field of counter-terrorism. This is part of the use of the EU's conceptual and normative power discussed in the second chapter. The EU aims to actively promote common rules and practices in international organisations such as the UN, and specific counter-terrorism platforms. The second example is a step further down from the upper level of international politics to the Sahel region. The Sahel is not only a 'test laboratory' for all of the EU's foreign policy activities

but also one of the focal points in the EU's external fight against terrorism. The Sahel case reflects the complexity of international action at the grassroots level, as the EU is by no means the only external player in the region, and not all actors have the same objectives or priorities. This poses significant challenges for the EU. The third example deals more closely with counter-terrorism in the framework of development cooperation and enlargement policy. The fourth and last example illustrates the EU's difficulties in addressing through common policy one of the most pressing security challenges in recent years: the phenomenon of foreign fighters, and their return back to Europe.

4.1. THE EU AS PART OF INTERNATIONAL FORA AND ORGANISATIONS

As far as diplomacy is concerned, the main forms of EU action are so-called CT dialogues with a number of states and engagement in various international fora. Although direct EU action on counter-terrorism is largely limited to CSDP missions and the work of some FSJ agencies, the EU is actively involved in multilateral counter-terrorism coordination and cooperation, playing a relatively important role internationally in disseminating standards and best practices. This is in line with the EU's strong emphasis on the principle of multilateral cooperation, which characterises both the European Security Strategy and the EU Global Strategy as well as the EU Counter-Terrorism Strategy.

The most important international forum for the EU is the UN. The EU actively supports the global counter-terrorism strategy of the UN⁹⁸, which is reviewed every two years. In addition, the EU has implemented UN Security Council resolutions on the fight against terrorism and the phenomenon of foreign terrorist fighters.⁹⁹ In addition to the UN, the Global Counterterrorism Forum (GCTF) is a key forum for interaction in the fight against terrorism. It is a platform focusing on technical issues in 29 countries and in the European Union with the aim of enhancing the global fight against terrorism.¹⁰⁰ It allows Member States to share their experiences of different counter-terrorism practices, training and coaching, legal affairs and P/CVE activities. The EU, together with Egypt, is chairing the GCTF Working Group on Capacity Building in the East African Region and supports GCTF initiatives on the rule of law and P/CVE practices.

98 United Nations, General Assembly 2006.

99 United Nations, Security Council 1999; 2001; 2014a; 2014b.

100 Global Counterterrorism Forum website.

Of the other international and multilateral organisations with which the EU seeks cooperation in the field of counter-terrorism, the EU emphasises in particular the role of the OSCE (which focuses on Central Asia, Eastern Europe and the Western Balkans), the Council of Europe (a cooperation and human rights organisation), the G7, the international criminal police organisation Interpol, the North Atlantic Treaty Organization NATO, the International Coalition against ISIS and, among other things, the Financial Action Task Force (FATF) under the OECD, which focuses on the fight against terrorist financing. In addition, the EU cooperates with several regional organisations whose importance is emphasised, for example, in the global strategy. Regional organisations which are important for the EU include the African Union, the Economic Community of West African States (ECOWAS), G5 Sahel, the Association of Southeast Asian Nations (ASEAN), the Arab League and the Cooperation Council for the Arab States of the Gulf (GCC).¹⁰¹

The importance of diplomacy and international cooperation in the fight against terrorism should not be underestimated. In particular, the dialogue with the EU's neighbours and many third countries on counter-terrorism issues has been an important factor in finding a common, or at least closer, understanding of the core concepts and practices. More detailed action plans with non-EU countries have been agreed on through the dialogue. This makes it easier for other key EU actors, such as Europol, to conclude strategic or operational cooperation agreements which allow for direct cooperation with the authorities of the target country.

One manifestation of the EU's exercise of normative or 'soft power' is the EU's position of authority in some aspects of the response to terrorism. For instance, the European Union Aviation Safety Agency (EASA) has in the past decade had an important role in developing the international air traffic regulations. In particular, in the aftermath of terrorist attacks or failed attempts, EASA has introduced measures which have since become more common in international aviation. Such measures include restrictions on the amount of liquids in hand baggage.¹⁰²

101 Council of the European Union 2017b.

102 E.g. Argomaniz & Lehr 2016, 363-379.

4.2. COUNTER-TERRORISM AS PART OF A WIDER REGIONAL STRATEGY: THE SAHEL CASE

4.2.1. EU strategy in the Sahel region

Sahel was the first region in Africa for which the EU formulated its own regional strategy.¹⁰³ In October 2010, the Council asked the High Representative and the Commission to submit a strategy for the Sahel region. Indeed, the basis for the Sahel policy is still composed of the European Union Strategy for the Security and Development in the Sahel¹⁰⁴, prepared under the leadership of the High Representative and the Commission, on which the Council adopted its conclusions in March 2011. The strategy originally focused on only three Sahel countries, Mali, Mauritania and Niger, but in March 2014, the Council called for it to be extended to Burkina Faso and Chad as well. In 2013, a dedicated EU Special Representative was appointed for the Sahel region, and in 2015, a regional action plan for the years 2015–2020 was created to complement the Sahel strategy.¹⁰⁵

The EU's approach to the Sahel region has been guided from the outset by the idea that the security and development of the Sahel region are linked to the security of EU citizens and the Union. In other words, the EU's strategy towards the region clearly reflects the developments described in Chapter 2, which began at the end of the 2000s, in which the links between the EU's external and internal security have been emphasised. At the same time, the EU has, from the very beginning, stressed the interdependence between security and development in the region. This is why the EU has tried to approach the Sahel region as comprehensively as possible, making use of its extensive foreign policy and external relations palette. The Sahel region has indeed been regarded as a sort of 'test laboratory' for the EU's foreign and security policy.¹⁰⁶

A clear priority for the EU in the Sahel has been to build the capacities of the states and regional organisations in the Sahel in order for them to address the multiple challenges facing them. All in all, it can be said that the EU's action in the Sahel region has been guided by very similar priorities and objectives, that the Global Strategy has put at the forefront of the EU's foreign and security policy at large. These priorities include an emphasis on the EU's own security, the internal–external security nexus and the building of partners' capacities with the aim of strengthening their resilience to crises.

103 Since then, the EU has also formulated its own strategies for the Horn of Africa and the Gulf of Guinea.

104 European Union External Action Service 2011.

105 Council of the European Union 2015b.

106 Lopez Lucia 2017.

4.2.2. Sahel and the fight against terrorism

Terrorism in its various forms is a key security concern in the Sahel region. Thus, the fight against terrorism and the prevention of violent extremism have since the onset been key components of the EU's strategy and action in the Sahel region. Sahel is one of the EU's clearest focal regions in its external counter-terrorism efforts. At the same time, the EU's Sahel strategy implicitly includes the expectation that measures other than those aimed directly or explicitly at combating terrorism or preventing violent extremism can contribute to achieving these objectives.

The four key priorities of the 2011 Sahel strategy are: 1) supporting development, good governance and internal conflict resolution; 2) political and diplomatic action to create a common regional vision and strategy between the countries of the region and to reinforce the dialogue on security and development in the Sahel region with key neighbours and regional and international partners; 3) strengthening the capacities of security, law enforcement and judicial authorities to tackle terrorism and organised crime and linking these actions to measures of good governance; and 4) reinforcing the resilience to crises of societies in order to counter extremism, and improving the position of societal groups vulnerable to segments in relation to radicalisation. The 2015 Action Plan slightly updated this approach and called on the EU to invest in particular in preventing and countering radicalisation, in creating appropriate conditions for the youth, in addressing migration, mobility and border management issues, as well as in fighting illicit trafficking and transnational organised crime.

In practice, EU action on counter-terrorism in the Sahel region can be divided into two main groups. These include, firstly, financing various projects aimed at countering terrorism (in particular the prevention of violent extremism and radicalisation), and, secondly, building the capacities of local partners to counter terrorism. In addition, the EU's diplomatic efforts in the region play an important role in the fight against terrorism.

In 2018, according to the Commission, the EU spent a total of EUR 337 million on various projects aimed at countering and preventing terrorism and violent extremism.¹⁰⁷ 32% of these funds were directed towards West Africa, which also covers (but is not limited to) the Sahel region. In practice, the EU money is distributed through various financial instruments and projects¹⁰⁸, which makes it difficult to determine the total amount for the Sahel region. In any case, the EU's overall financial contribution to counter-terrorism and P/CVE work has increased significantly, and the share of P/CVE projects in particular has increased rapidly in recent

107 European Commission 2019d.

108 Glazzard & Reed 2018, 11.

years.¹⁰⁹ At the same time, Western Africa has become an increasingly important target area¹¹⁰, reflecting the increased willingness to allocate funds to Africa and address the root causes of migration as a result of the 2015 refugee crisis.

In terms of supporting the capacities of the local authorities, the Sahel region is particularly important, as it was in the Sahel where the EU established its first CSDP missions that had counter-terrorism tasks as an explicit priority in their mandate. These missions are EUCAP Sahel Niger, a civilian CSDP mission established in 2012, and EUTM Mali, a non-executive military mission set up in 2013. The key task of both is to strengthen the ability of local authorities to counter terrorism. In addition, the third CSDP mission in the region, the civilian mission EUCAP Sahel Mali that was established in 2015, was tasked with supporting the work of the Malian security authorities in countering terrorism and organised crime when the mandate of the mission was updated in 2016.

In this way, the three CSDP missions in the Sahel region put into practice the stipulations of Article 43(1) of the Lisbon Treaty by supporting third countries in their counter-terrorism work (see Chapter 2). Overall, however, the missions are relatively small (from around 190 persons in EUCAP Sahel Mali to 600 persons in EUTM Mali), and none of them have an executive mandate. In practice, the missions clearly show that the role of the CSDP – and particularly its military dimension – in the EU’s external counter-terrorism efforts remains limited. Counter-terrorism work by military means is being carried out in the Sahel region by other actors – especially the countries of the region themselves, other regional actors, France and other EU member states, the United States and the UN.¹¹¹

This does not mean that CSDP missions are not relevant in terms of counter-terrorism activities in the Sahel region. Trainings in both Mali and Niger have reached a significant proportion of the relevant local authorities and provided them with capacities that they would not have been able to obtain without the missions.¹¹² At the same time, the CSDP missions, together with other EU counter-terrorism measures, have strengthened the EU’s presence in the region and thus created opportunities for building partnerships with local, regional and international actors in the field of counter-terrorism.¹¹³ On the other hand, the real impact of short training sessions on the practices of local armed forces and

109 Ibid., 12.

110 Ibid., 13.

111 See e.g. Faleg 2018, 34–69.

112 See European Court of Auditors 2018.

113 European Commission 2015b, 4.

security operators in the longer term has been considered to be limited and uncertain.¹¹⁴ At the same time, for capacity building, the EU relies heavily on local authorities and soldiers, who do not always have much legitimacy in the eyes of the citizens of the region, and who, in some cases, have been reported to be guilty of human rights violations.¹¹⁵ In addition to its own CSDP missions in Mali and Niger, the EU has also strongly supported the new G5 Sahel Joint Force, a military actor consisting of the five countries in the Sahel region, the largest single donor of which is the EU.

Since the 2015 refugee crisis, migration and border security issues have become a key priority for the EU in Africa. The Sahel region is a key transit route from sub-Saharan Africa to North Africa and from there to Europe. As a result of the refugee crisis, the EU established the *Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa* (EUTF). It channels funds from the European Development Fund and other EU financial instruments to actions that are considered as essential in dealing with migration and, in particular, in addressing its root causes. At the same time, the mandates of EUCAP Sahel Niger and EUCAP Sahel Mali were extended to include tasks related to migration and border security. In particular for EUCAP Sahel Niger, these became the key focus of the mission. At the same time, and partly for the same reasons, the role of EU internal security agencies and policies in EU external action, including CSDP operations, has increased as described in Chapter 3. In the Sahel region, Frontex, for instance, now has a liaison officer of its own in Niger. Indeed, the example of the Sahel region shows how close the internal-external security nexus has become and how significant an impact the recent crises affecting the EU have had on the EU's foreign, security and defence policy.

4.2.3. Challenge of coordinating actors, measures and practices

The Sahel case is an illustrative example of the variety of external counter-terrorism instruments that the EU has at its disposal. In the Sahel region, they are tied to a broader regional foreign and security policy strategy. However, even in the case of Sahel, it is very difficult to assess the effects of the EU's counter-terrorism efforts, because, in addition to them, other EU measures aimed at the region can have significant effects on the development of terrorism as well. At the same time, it is still too early to assess many of the EU's actions, as they aim for change in the medium or long term. The development of the threat of terrorism in the region is also difficult to distinguish from the overall dynamics of the

114 European Court of Auditors 2018.

115 Márquez Carrasco et al. 2016.

complex challenges facing the region. It is also very important to bear in mind that in the Sahel region, the EU is only one actor among many, with the states of the region, different regional cooperation organisations, international actors and the Union's own Member States all being important actors in their own right. However, while the above-mentioned factors make it very difficult to assess the impact of the EU's counter-terrorism measures on the Sahel, it is still possible to make some general observations on the EU's activities in the region.

First of all, it is clear that although the CSDP missions in the Sahel have paved the way for using the CSDP instrument for counter-terrorism tasks, so far they have not served as models for other missions or operations with a counter-terrorism focus. On the other hand, however, operations in the Sahel region are an example of an increasingly strong internal-external security nexus also in the framework of the CSDP. The strengthening of this link is likely to have a significant impact on both the CSDP and the AFSJ in the near future.

Secondly, a key challenge for both the EU and all other actors in the Sahel region is how to coordinate their respective counter-terrorism efforts. As far as the EU is concerned, it also faces the challenge of having to ensure that its own measures, including the CSDP missions and the development projects aimed at preventing radicalisation, form a coherent whole. This is difficult, as the measures are being carried out through various frameworks and by different actors within the EU. However, co-ordination is essential for the EU to succeed in its aims.

Thirdly, one specific issue in the Sahel region is what kind of an impact the EU's growing focus on migration has on the Union's strategy and policy options in the region, including on its efforts to counter terrorism and violent extremism. The EU's multiple objectives and measures in the region are usually portrayed as being mutually supportive and complementary, but in practice this may not always be the case. This applies to the relationship between curbing migration and countering terrorism as well, which is far from simple. On the one hand, it is obvious that there are some links and shared benefits between strengthening border controls and the fight against terrorism and organised crime. On the other hand, the projects aiming to meet the basic needs of the local population in order to prevent violent extremism and the measures to manage migration may have partly contradictory goals. There are indications in the Sahel region – and particularly in Niger – that increased border controls and restriction of migration have undermined the sources of income of groups that are heavily dependent on trans-regional traffic, thereby causing frustration and pressures which can make these groups more vulnerable

to radicalisation.¹¹⁶ The EU should therefore try to find the right balance between its different policy objectives and between its own interests and the local needs. Reconciling the EU's own short-term and long-term objectives would also be very important from this point of view.¹¹⁷

4.3. DEVELOPMENT COOPERATION, NEIGHBOURHOOD AND ENLARGEMENT POLICIES

In monetary terms, counter-terrorism and P/CVE projects carried out with third countries are, at present, the largest single element in the EU's external fight against terrorism. From the perspective of the counter-terrorism strategy, the projects aim to increase the "prevent", "pursue" and "response" aspects through security sector reforms and capacity-building. This is considered to increase the resilience of third-countries and thereby also to reduce the threat of terrorism in Europe. In total, the EU spent approximately EUR 337 million on P/CVE projects in 2018 within the framework of international development coordination. Investments in CT and P/CVE projects have increased significantly in only a few years. In 2015, the EU spent less than half of the current sum on CT projects abroad. There has been an increase in spending particularly on projects related to the prevention of violent extremism, the funding for which increased by 312 per cent between 2015 and 2018.¹¹⁸

The projects are implemented in practice by the European Commission's Directorate-General for International Cooperation and Development, the FPI or the Directorate-General for Neighbourhood and Enlargement Negotiations, but the Directorate-General for Development is clearly the most important, as it manages approximately two thirds of the projects. EU Member States may also be involved as implementing partners. The different financial instruments were discussed in more detail in Chapter 3.2 on the Commission.

In addition to financial instruments, the EU can use, for instance, the African Peace Facility (APF), which focuses on cooperation and partnership with Africa. It provides support for peace, builds capacity and develops early responsiveness. In other words, it operates more extensively to develop stability, but in this context, counter-terrorism work is also carried out, since the EU uses the APF to support the G5 Sahel Joint Force (EUR 100 million), the African Union (AU) mission in Somalia (EUR 1.7

116 See e.g. Davitti & Ursu 2018; Alenius Boserup & Martinez 2018; The Guardian 2018; Vervisch 2015.

117 See also Vervisch 2015.

118 European Commission 2019d.

billion) and the Multinational Joint Task Force combating the terrorist organisation Boko Haram operating in West Africa (EUR 50 million). As the APF is not actually a partnership focusing on the fight against terrorism, the funds spent under it are not included in the annual review by the DG Devco on the financing of counter-terrorism or P/CVE¹¹⁹.

Almost two thirds of all EU projects are implemented in East, West or North Africa and the Middle East.

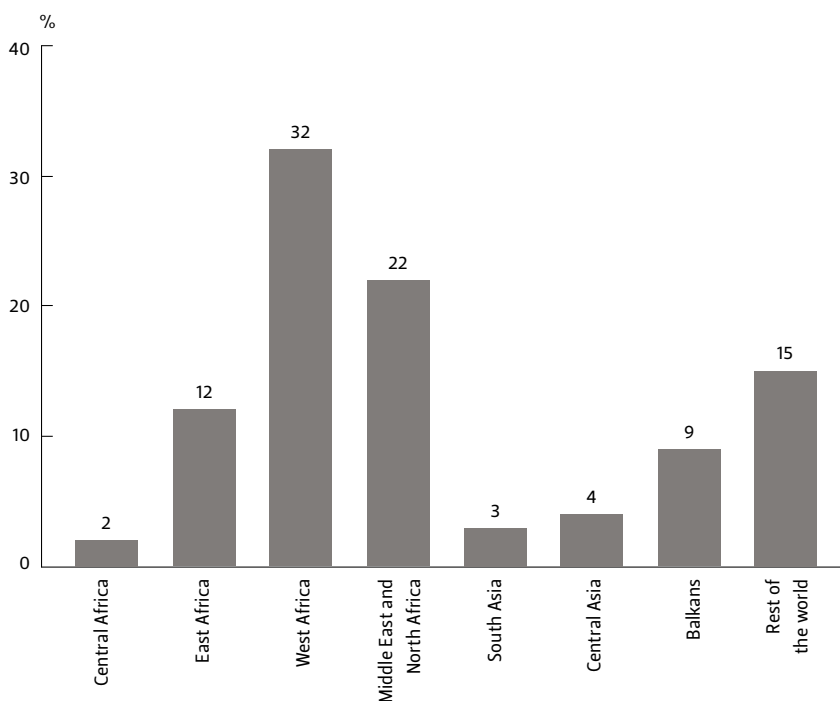


Figure 3: Investments in combating terrorism by region in 2018 (European Commission 2019d, 1–2.)

Thematically, approximately half of the projects are related to P/CVE work in civil society, one quarter to criminal sanctions related to combating terrorism in cooperation with the authorities, and a tenth to combating terrorist financing. From the geographical and thematic distribution of projects, it can be concluded that the EU focuses its resources mainly on targets which are of strategic importance to the EU and on those areas of activity where cooperation with third countries has been easiest. For instance, the share of funding invested in the exchange of information with third countries is considerably smaller (6%) than it could be

119 European Commission 2019d.

imagined to be, based on the emphasis on its importance in the different counter-terrorism strategies.¹²⁰

The implementation of the projects reflects to some extent the relationship between the EU's counter-terrorism efforts and that of the Member States, third countries and international organisations. As many as 44% of development cooperation projects in third countries, related to countering terrorism and violent extremism, are implemented by an EU Member State, and the role of the EU is to reconcile the action with broader counter-terrorism work and to finance it. Only 15% of the projects are implemented by countries other than the EU Member States. With regard to the rest, the executive party was either a non-governmental organisation, a UN sub-organisation or another international organisation. A private sector actor was an executive partner in only 1 per cent of the cases.¹²¹

Heavy and very quickly increased investment in CT and P/CVE projects raises some questions. Has there been sufficient knowledge of the local conditions to ensure that the right type of project has been carried out? Is the EU prepared to invest in projects over a longer period of time, or will there only be short projects of a few years? P/CVE requires long-term work and an approach tailored to the local context in order to start bearing fruit. Given that there is also a geographical dispersion in the EU investment in P/CVE projects, it is appropriate to ask whether the contributions are distributed in a way that best meets the Union's strategic aims and needs. As the investments are still relatively recent, their results cannot be assessed yet. It is therefore not possible to answer these questions at this point.

4.3.1. Neighbourhood policy and enlargement negotiations:

The case of the Western Balkans

From the EU's point of view, the Western Balkan countries are in a special intermediate state. They are in the immediate neighbourhood of the Union, but on the other hand, Croatia is already an EU member, and the other countries in the Western Balkans are also involved in the accession programme. Compared to other non-EU countries, this has enabled a wider range of financial instruments and practices, including in the field of counter-terrorism. In the conclusions of the Council on the external action on counter-terrorism (10384/17), the Western Balkans are seen as a key area with which an operational partnership in countering terrorism and P/CVE should be reinforced. Work is being done through the

¹²⁰ Ibid., 2-4.

¹²¹ Ibid.

multilateral Western Balkans Counter-Terrorism Initiative funded by the EU. It is part of the Integrative Internal Security Governance (IISG) project, which focuses more broadly on building security capacity. In relation to the threat of terrorism, the Western Balkans play an important role, especially in terms of illicit arms trafficking and the movement of foreign fighters, but there are also local radical networks which can serve as a breeding ground for violent activities.

In relation to the fight against terrorism, all Western Balkan countries have had a special dialogue with the EU on countering terrorism. On this basis, the EU, together with the Western Balkan countries, drew up a cooperation plan on combating terrorism in 2018.¹²² The plan emphasises the importance of continuous cooperation, dialogue and the peer reviews of the development process. It also underscores the need to develop the region's own network of counter-terrorism experts, supported by the Western Balkan counter-terrorism and security advisor in the EU delegation to Sarajevo. The plan identifies five concrete objectives:

1. Institutionalisation of the fight against terrorism and P/CVE, capacity building and the alignment of legal concepts with EU framework decisions
2. Enhancement of P/CVE methods and practices. This is supported, among others, by RAN and ECTC. The ECTC's Internet Referral Unit helps to develop expertise and the ability to combat terrorist content online.
3. Improving information exchange and operational cooperation. Europol and Eurojust, in particular, play a key role in this. The Western Balkan countries should step up their cooperation with these agencies, and the agencies, for their part, need to contribute to awareness-raising and capacity-building in the Western Balkan countries. The SIENA network maintained by Europol should also be implemented.
4. Building capacity to combat money laundering and terrorist financing in line with the standards of the Financial Action Task Force (FATF) under the OECD. On behalf of the EU, Cepol is involved in training law enforcement authorities.
5. Strengthening and protecting critical infrastructure, in particular cybersecurity and preparedness for hybrid threats.

The cooperation plan clearly shows that the role and responsibilities of the EU are quite significant. The harmonisation of legislation underlines

¹²² European Commission 2018.

the EU's use of normative power, whereas the harmonisation of cooperation between authorities, information exchange and other practices are indirect ways of influencing counter-terrorism practices on the ground.

While this report was being drafted, bilateral action plans were signed with the Western Balkan countries, and the implementation phase is about to begin. The Western Balkan countries seem committed to implementing the measures. At least Bosnia and Herzegovina, Albania and Serbia already have liaison officers at Europol, and Frontex has regional liaison officers in the Western Balkans and an operational agreement with Albania and Montenegro. However, from the EU's point of view, specific CT dialogues continue with each country separately, and developments are monitored not only by delegations, but also by means of the IPA and TAIEX instruments.

4.4. TESTING COHERENCE: FOREIGN FIGHTERS

The phenomenon of foreign fighters linked to the conflict in Syria, which began in 2011, has a significant impact on the threat of terrorism also in Europe. Unlike the conflict in Ukraine, for example, which has also attracted foreign fighters, some of those travelling to the conflict zones in Syria are motivated by an ideology promoting terrorist means. This has been the case particularly since the terrorist organisation ISIS became world-famous in 2014, and the number of volunteers increased considerably. Particularly from that time onwards, the world view of many volunteers has been shaped by an ideology in which the Western countries, Europe included, are the enemy, and violence against ordinary citizens is justified. There is no accurate data on the number of volunteers having left the EU countries, but the estimates are between 4,000 and 5,000.¹²³ In addition, citizens from non-EU countries who may also have a background in armed activities or in supporting them can head towards Europe from conflict zones. In addition to the EU nationals with terrorist experience, these non-EU foreign fighters must also be taken into account.

From the EU's point of view, foreign fighters and their families, especially those who have joined the terrorist organisation ISIS, pose a multilevel security threat. 1) They have combat experience, and their return to Europe can thus be reflected in the security situation in many

¹²³ There are no accurate figures, as the Member States have used different criteria to compile statistics on those leaving their countries. For example, some have included those suspected of terrorism, others have separated those leaving due to terrorist motives from other volunteers, and Hungary and Greece have not provided any information on the persons having left their countries. In addition to the information received from the authorities, open sources have also often been used in the assessments. Coolsaet & Renard 2019; van Ginkel & Entenmann 2016, 3.

ways from potential terrorist attacks to more violent organised crime. In addition, volunteers can indirectly influence the threat of terrorism, for example by radicalising others, and by supporting extremism, for example through fundraising or networking. 2) “Jihadi spouses” and children taken to conflict zones and born there are seen as a particularly difficult and diverse challenge. Many children have not been identified, which makes implementing their fundamental rights and returning them home exceptionally difficult. In addition, boys over nine years of age and some women have received armed training in a combat zone, which means that they can also pose a threat, for example through terrorist or other criminal activities. 3) The foreign fighter question relates to a wide range of practices: Countering terrorism and violent extremism, exchange of information between authorities, criminal proceedings and sanctions.¹²⁴ Therefore, addressing the challenge of foreign fighters cuts across many administrative boundaries. However, in order to have a common policy on foreign fighters, the EU Member States should have a common understanding of the phenomenon and what it requires to counter it. This is currently not the case.

The political pressure generated by the threat of foreign fighters is primarily felt in the domestic politics of the Member States. However, given the considerable expectations of EU citizens in the field of counter-terrorism, the EU should also be able to make visible progress with regard to foreign fighters. In addition to emphasising common concepts and methods, there are significant expectations regarding the potential of Europe-wide situational awareness, neighbourhood and border policies and common databases. For example, the use of criminal law practices, such as battlefield evidence, requires some kind of consensus on their role in investigating criminal cases and in court proceedings, in order to ensure that offenders can be held responsible as effectively as possible after their transfer to Europe.

In August 2014, the European Council called for the swift implementation of EU measures to support Member States, with a focus on 1) preventing radicalisation and extremism, 2) enhancing the exchange of information between Member States and with third countries, 3) detecting and disrupting suspicious travel, and 4) investigating and prosecuting foreign fighters.¹²⁵ Even if the focus in the measures might be on the internal security, all of them call also for increased EU operation outside the Union. Point two has been a kind of eternity requirement in the field of counter-terrorism, as it has been highlighted in many strategic policies

¹²⁴ European Parliamentary Research Service 2018, 5.

¹²⁵ European Council 2014.

on countering terrorism. The third point has been reflected particularly in the Frontex reform, which has extended the agency's mandate and competences in order to enhance the monitoring and analysis of travel and migration. As for the fourth point, it has been visible in the emphasis placed on the role of Eurojust, in particular in terms of the use of battle-field evidence and the legal processes associated with foreign terrorist fighters, and in the maintenance of the overall view on terrorism situation in Europol.

While this report was being drafted, the threat of foreign fighters was changing. ISIS has largely been defeated in military terms, and a large number of fighters and other volunteers in the area it governed have either escaped or been detained in one of the prisons or refugee camps in the conflict zone. According to an estimate, there are approximately 1,100 to 1,200 EU citizens in Syria and Iraq, of whom more than half are children.¹²⁶ As a result, the political focus has shifted to criminal law issues and the implementation of the fundamental rights of EU citizens in situations where their health, especially the health of children, may be at risk due to the conditions of prison camps. Although discussions in several EU bodies have been held on the situation, no common policy has been found at EU level on this issue, and the Council has not taken the matter up for official decision-making. The responsibility for ISIS volunteers lies with the countries of which they are citizens.

Especially for the large Member States, such as France, maintaining sovereignty over their own extremists is the desired situation. France has different capabilities and capacities to negotiate with Iraq on the fate of French nationals in its prisons compared to smaller Member States. In addition, the situation within France with regard to jihadi networks and the absolute number of volunteers having left the country is completely different from that of many other EU countries. This means that the threat of jihadi terrorism faced by the country is significantly greater than, for example, in eastern European countries, where hardly any people have left to volunteer for ISIS, and there are hardly any existing jihadi networks. The large Member States therefore feel that by relying on their national capacities they can act faster, in a more agile manner and with greater regard for their own interests than would be possible within the framework of the EU. However, as jihadi networks extend to most EU countries, and freedom of movement in the Schengen area is a fundamental right of EU citizens, the solutions of each Member State inevitably also concern other EU countries, which is why the issue of foreign fighters is a common challenge.

126 Coolsaet & Renard 2019.

Since ISIS has effectively exploited the experiences of discrimination and subservience among European Muslims in its propaganda¹²⁷, convictions in conflict countries or, for example, the deaths of children in prison camps, which are perceived as unfair, are easy to include in jihadi propaganda. Hence, the issue cannot be solved by simply banning the foreign fighters physically from their home countries in the EU, because their destinies do play a role in the European jihadi networks nevertheless.

4.4.1. Improving the exchange of information

Exchange of information with key neighbouring and transit countries is essential to obtain an overall picture of the foreign fighter movements. In this respect, cooperation with the intelligence and security authorities of Turkey, the Western Balkans, North African countries and the countries of the Middle East is very important. The problem, however, is the question of data protection and diverging views on what terrorism is.

In the EU, people's data protection is extremely strong. The conditions for exchanging personal data with third countries are therefore based on very strict requirements on how and where data may be stored and from whom it may be collected. The latter also relates to the requirements of common concepts. In other words, where EU countries are interested in the European jihadists and non-EU jihadists on their way to Europe, countries such as Turkey may be more interested in their domestic groups challenging the regime, like for example the Gülenists, which the EU itself does not consider to fit the definition of terrorists.

Of the EU actors, Europol in particular plays a critical role in the exchange of information, as it also collects and analyses information related to foreign fighters. Europol's activities were discussed in more detail in Chapter 3.4. Although it is not possible to exchange information comprehensively with all countries of strategic importance for the phenomenon of foreign fighters, Europol nevertheless cooperates with them, as far as possible, without the exchange of personal data. This is particularly the case for Turkey. Both Europol and Frontex have liaison officers in many key countries, and advisory positions in the field of security and counter-terrorism have been established within EU delegations. The role of these advisors includes coordinating cooperation with key authorities in the country of destination.

4.4.2. Travelling for terrorist purposes

The most significant legislative initiatives related to the phenomenon of foreign fighters have concerned the movement of people. The

¹²⁷ E.g. Juntunen et al. 2016, 39–44.

criminalisation of travel for terrorist purposes is largely linked to UN Security Council Resolution 2178 (2014), which the EU adapted into a directive in 2017.¹²⁸ According to the directive, it is a crime to travel abroad to join a terrorist organisation and/or return to the territory of the EU in order to carry out a terrorist attack. Preparing or supporting a journey for such purposes is also considered to exceed the criminal threshold.¹²⁹ The travel directive must take account of the fact that it covers travel from the EU to countries outside the Union, the return of EU citizens to the EU, and the travel of non-EU nationals from third countries to and within the EU. Therefore, it does not cover the travel of EU citizens in the area of free movement, although the European Parliament originally supported the extension of the directive to them as well.¹³⁰ However, as travelling to and from the conflict zones in Syria and Iraq had already largely stopped by 2016¹³¹, and the legislation is not applied retrospectively. Thus, it seems that, at least with regard to the phenomenon of foreign volunteers joining ISIS, the legislative changes will not ultimately have a significant impact.

The restriction of mobility and the detection of suspicious travel has mainly affected practices at the EU's external borders, airports and ports. Among these, one of most significant reforms is the Passenger Name Record (PNR) Directive, which was adopted in 2016, and which enables the collection and distribution of much more detailed information on passengers by the authorities of the Member States. The directive was under preparation long before the problem of foreign fighters. However, it encountered political opposition because it was feared to be disproportionately extensive and in violation of privacy. Information protection issues, especially in cooperation with third countries, have required more detailed examination, which is why a very long time was required for the preparation. However, a compromise was reached on the content of the directive in 2015 in the aftermath of the Paris terrorist attack.

In addition to the PNR Directive, the amendment of the Schengen acquis in 2017 enables much more efficient monitoring of travel. This amendment requires systematic checks by border control authorities also for EU citizens crossing external borders. In other words, EU citizens' documents are also reviewed at the external border and automatically compared to key official databases, which can be used to report, for example, on wanted criminals or known foreign fighters. Before the amendment, only third-country nationals were systematically checked, which meant in

128 Directive (EU) 2017/541 of the European Parliament and of the Council.

129 Directive (EU) 2017/541 of the European Parliament and of the Council, Article 9 and 10.

130 European Parliament Research Service 2018, 7.

131 E.g. Finnish Security and Intelligence Service website.

practice that foreign fighters from the EU could easily cross the external border as long as their documents were in order. It is estimated that one third of foreign fighters have returned to the EU.¹³² Thus, the change in border procedures can still have an impact on those foreign fighters who remain in conflict zones and return from there later. As there are no more border controls at internal borders except in exceptional cases, it is not possible to limit the mobility of returned foreign fighters who are already inside Schengen.

4.4.3. Judicial and penitentiary processes

The international dynamo in the activities against the terrorist organisation ISIS has been the Inherent Resolve military coalition led by the United States, in which the EU as well as several Member States also participate. In relation to the phenomenon of foreign fighters, the operation plays a critical role in ensuring that the physical battlefield evidence gathered by the United States army will be at the disposal of the European criminal investigators. The evidence allows EU citizens to be prosecuted for terrorism, war crimes or other crimes for which they can also be sentenced at national courts, even if the crime itself were committed elsewhere. For the time being, EU countries' own criminal investigations in the conflict area are either extremely difficult or impossible to carry out. For example, travelling for terrorist purposes is not in itself sufficient for very long sentences.

With regard to criminal investigations, both Europol and Eurojust play a key role from the EU's point of view. Europol collects and analyses data on crime related to terrorism and can provide this information to the Member States where necessary. It also has at its disposal experts on terrorist offences who can provide executive assistance to the Member States and third countries. Europol's operational role was discussed in more detail in Chapter 3.4, but in this context, it should be mentioned that Europol's role in the issue of foreign fighters has strengthened its credibility in the eyes of the Member States. Similarly, Eurojust has played a key role in relation to the use of battleground evidence in European criminal courts. It has brought together key Member State authorities and increased awareness of the criminal law aspects of the phenomenon of foreign terrorist fighters.

When this report was being drafted, it was unclear whether an international court or a so-called hybrid court could be established in relation to the conflict in Iraq and Syria, in which both national and international elements could be combined. In any case, Eurojust will continue to play

¹³² E.g. van Ginkel & Entenman 2016.

a key role in ensuring that European foreign fighters are prosecuted and sentenced as effectively and fairly as possible.

Together with criminal justice processes, there are also penitentiary issues related to the same dimension of external action. As has already been mentioned, in Syria and Iraq, there are an estimated 1,200 EU citizens either in prisons or in strictly guarded camps. Approximately one hundred of them are detained in Iraq, and the majority of them have been sentenced. Since the EU Member States do not wish to take the convicted prisoners back to their countries of origin, it is justified from the EU's point of view to support Iraq and, at some point, perhaps also Syria in building capacity in relation to penitentiary care, and to support P/CVE work in prisons. In this way, the EU can consider that citizens' fundamental rights will be realised and that they will not be tortured or otherwise treated in ways that violate EU values. Penitentiary care is also more widely related to good governance and resilience building, and countering violent extremism in prisons is justified, even if there are no EU citizens in Iraqi prisons, as the conflicts with jihadi elements are already deeply reflected in Europe through radical networks. For example, the rise of ISIS was largely possible because of radicalisation and extremist networking in prisons. That is why it is precisely the support and improvement of penitentiary care that can help to provide security both in Europe's immediate neighbourhood and in the EU.

CONCLUSIONS

The purpose of this study has been to map and analyse the EU external action on counter-terrorism and, where possible, to consider the importance of the chosen policies and practices as part of a wider set of EU policy instruments. The task has not been easy, as the field of counter-terrorism continues to evolve rapidly. Consequently, very far-reaching conclusions cannot be drawn yet. However, the development in the EU has progressed towards more comprehensive, coordinated and effective counter-terrorism efforts, although many major challenges remain. As the EU has gained experience and the political conditions have changed, the Union has adapted and developed its counter-terrorism approach and actions over the years. In other words, the EU has been able to act quickly and flexibly if necessary. The latest indication of this is the reinforced link between external and internal security policies, at both the strategic and the practical level.

The emphasis on the internal-external security nexus is a natural course of development. On the other hand, this development also involves uncertainties and challenges. In particular, the changing roles and division of labour between the EU actors – especially the strengthening role of internal security agencies – increase the risk of resource and power struggles and unnecessary overlaps. The growing role of the agencies may also further complicate the overall picture of the EU counter-terrorism actors and their roles. As a result, the democratic control of different counter-terrorism measures and practices may become more difficult.

As stated in the introductory chapter, terrorism is considered one of the most significant security threats in the EU, and the expectations of

the EU's contribution to countering the threat are also high. Can the EU then respond to these expectations? The Member States and their own authorities will continue to play the decisive role in this respect, as various EU actors, such as Europol or Intcen, are largely dependent on the information provided by the Member States' own services. In addition, the internal political situation in the Member States and the differences between them can be strongly reflected in the EU's capability to act as one, as has been the case regarding the return of the European volunteers from the conflict zones in Iraq and Syria. The Member States have adhered strictly to their sovereignty towards their own citizens even if they are contained in third countries, and no common policy has been found to the problem affecting the whole of the EU.

Keeping its own objectives and priorities clear and ensuring coordination and coherence within the EU, on the one hand, and between the EU and the Member States on the other, are perhaps the most important challenges for the functioning of the EU's counter-terrorism activities, both now and in the future. The EU must be able to reinforce coordination between the various actors in order to develop its own external action on counter-terrorism. However, the responsibility for coordination and coherence should not only lie with EU institutions and other EU bodies, but the Member States must also be more active in this respect.

INSTITUTIONAL DEVELOPMENTS

EU-level counter-terrorism work has been described as an advanced and institutionalised cooperation system between Member States. It functions through common instruments and processes both within the Union and externally.¹³³ Although the system has been rendered more efficient and been improved over the years, it is still characterised not only by comprehensiveness, but also by complexity, overlaps and a degree of offhandedness. The institutional history of the EU is one of the main reasons for this situation. The pillar division before the entry into force of the Treaty of Lisbon separated internal and external security into distinct areas, which was not very efficient having in mind that terrorist organisations are effectively international by nature and do not neatly fit in either sphere. In particular, the Internet enables them to engage in activities regardless of their physical location, for instance in the financing and dissemination of propaganda. There was a clear awareness of this at EU level, which led to breaking the pillar division down and ongoing

¹³³ Monar 2014, 195.

efforts to build a more organic link between internal and external security policies, actors and practices.

The different views as to whether the EU's counter-terrorism policies should be driven by the Commission or by the Member States add a dimension of their own to the complexity of the EU's decision-making structures. Centralising responsibility to the Commission could improve the coherence of the EU action and enhance coordination, but on the other hand, the Member States want to retain their decision-making powers. The Commission is therefore unlikely to be given more power. This has also partly been reflected in the development of the roles of the internal security agencies. The Commission has repeatedly intended to gain more decision-making power, for example in relation to the Frontex reforms, but the Member States have not agreed to this. The Council formed by the Member States will therefore continue to hold the strategic reins of the external action on counter-terrorism. On the other hand, it is the widening of Frontex's mandate and increase in its capacities to operate outside the EU that partly brings the agency to the same field with the highly intergovernmental Common Security and Defence Policy (CSDP) missions. With the reform, Frontex will launch its missions faster and more effectively than the CSDP as, unlike CSDP missions, Frontex operations do not require unanimity among the Member States. This may increase the attractiveness of Frontex in the eyes of decision-makers and officials when planning border management-related operations, which according to the new tasks of Frontex, could also include a counter-terrorism aspect.¹³⁴ The dynamics between CSDP missions and internal security agencies will therefore require deeper strategic reflection and policy alignment.

Although the mandate of Frontex has been extended and now also includes counter-terrorism activities, the agency's main task will continue to focus on border management and monitoring migration. It is therefore difficult to believe that Frontex's role in counter-terrorism would increase significantly, irrespective of the interfaces between counter-terrorism and border control. However, it is possible that the role of the other internal security agencies will increase as indicated by the development of Frontex. Currently the axis between Europol and the European External Action Service, supported by the relevant Directorates-General of the Commission and other decentralised agencies, is the dynamo for the implementation of the external action on counter-terrorism, but increasing the role of Europol can change the balance between these actors.

The European Counter-Terrorism Coordinator (CTC) is an interesting actor whose future role is difficult to assess. At the moment, it is closely

134 See Parkes 2017.

ted to the person of Gilles de Kerchove who has held the position for a long time. He has taken on a strong role, especially in external relations. The CTC works in the Council Secretariat and is appointed by the Member States, so it depends on the dynamics between the Member States what type of person the next coordinator is and what role he/she will play. In other words, the role of the CTC and the relationship of the CTC with other EU actors may change significantly in the future if the Member States consider it necessary.

Despite all its complexity, the functioning of EU institutions and instruments is not separate from the Member States' own policies on counter-terrorism. The field of counter-terrorism in the EU has primarily been developed to support and add value to the work of the Member States. That is why the success of the EU's counter-terrorism depends, firstly, on how the security authorities in the Member States trust common systems, and secondly on whether they know how to use them. The conflict in Syria and Iraq and the foreign terrorist fighter phenomenon linked to it and the migration crisis in 2015 have shown many Member States the importance of joint EU action – and the consequences that the lack of joint action may have. In the future, common EU databases and their use should be rendered more efficient and easier, so that the overall picture of the threat of terrorism is as comprehensive as possible. In the near future, this process will involve the collection and use of biometric data. However, these developments should continue to take place in accordance with the EU's own value base and the protection of the EU citizens' privacy.

THE EU AS A GLOBAL COUNTER-TERRORISM ACTOR

This report has examined the four main branches of the EU's external counter-terrorism activities through practical examples. Given the high expectations of EU citizens from the Union, it is worth asking how the EU succeeds in its actions against terrorism. Is it a relevant international actor, and what are its role and effectiveness based on? The examples in the review indicate that the EU is succeeding in some areas, but there are also challenges.

Perhaps the most important level of EU external action in which the Union has proved to be a relevant operator is the diplomatic work. Under the CFSP the EU practices its 'soft power', which serves to harmonise international standards and practices. In international fora, the EU has actively strived to create common ground rules, for example to protect air transport from terrorism and, on the other hand, to make terrorist

financing more difficult. However, it is often difficult for EU citizens to assess the results achieved at this level and their practical importance to the security of the EU.

In this context, it should be stressed that the EU is one of the few international actors whose member countries have reached agreement on what terrorism actually is. Based on this legal definition, the EU has opened specific CT dialogues with several countries. The dialogues aim to enable counter-terrorism cooperation with target countries. A significant addition to this has been the deployment of specific advisors focusing on counter-terrorism and security issues to EU delegations. They have acted locally to identify relevant partners and enabled direct cooperation between different authorities. Diplomacy has been particularly important in the Western Balkans countries, whose strategic importance to addressing the issue of foreign terrorist fighters is significant also from the point of view of the EU. A roadmap for countering terrorism has been recently drawn up with the countries in the region, and an action plan aiming at capacity-building has been signed. In the future, the EU will be involved in monitoring the implementation of the plan, but in order for the actual work to ultimately bear fruit, the Western Balkan countries themselves must commit to reforms.

However, significant challenges can also be seen in the diplomatic field. There is no consensus with Turkey on terrorist threats, which has hampered cooperation and the alignment of strategic lines. Although the cooperation between the authorities has worked well to the extent to which it has taken place, Turkey is a country of great strategic importance from the EU's point of view, for instance in relation to the issue of foreign fighters, and it would be desirable to deepen cooperation with it. However, the cooperation needs to adhere to the EU's fundamental values. Cooperation with many North African countries, such as Egypt, has also been difficult for similar reasons as in the case of Turkey. These countries are very important partners in the fight against the current terrorist threat.

The CSDP missions in the Sahel region reveal the complexity of the relationship between the fight against terrorism and the EU's foreign and security policy activities. In the end, building counter-terrorism capacities within the framework of the CSDP missions is only a small part of the EU's comprehensive foreign policy action in the region. Moreover, the development of the threat of terrorism is influenced by significantly broader social developments, such as the economic situation of the countries in the region, employment and population growth. It should also be remembered that there are a large number of other international actors operating in the Sahel region, which can have significant influence on

the future course of developments. In this respect, the potential of the EU to establish partnerships with other actors in the region and to form common objectives and practices play a key role. For example, it is not without importance if, at the same time as the EU invests in diverse P/CVE projects, some third countries actively disseminate very conservative religious interpretations in the Sahel region.

On the other hand, there may also be tensions or contradictions between the EU's own foreign policy objectives. For example, the EU's objective of controlling and limiting traffic through the Sahel region, thereby reducing migration to Europe, can have a significant impact on the livelihoods and the means of subsistence of the local population at least in the short and medium term, thereby potentially making certain groups more vulnerable to radicalisation. It is therefore of the utmost importance that the EU be able to take into account the effects of its various actions and compensate for any negative consequences through its other instruments, making use of its comprehensive policy options.

The example of the Sahel region indicates that the role and effectiveness of the EU in combating terrorism depends on many factors. The idea of supporting resilience in third countries included in the EU's global strategy is based on this: the EU is making a holistic effort to support the development of different regions in a positive direction. This finding does not diminish the value of actions focusing specifically on countering terrorism, even if they are more limited in relation to other activities. Rather, it underscores that the EU has understood the importance of broader political and economic development. Terrorism is not only tackled by imprisoning terrorists, but also by reducing the attractiveness of radical ideologies by contributing to the building of a fair and functioning society.

One of the most rapidly growing areas of the EU's external action on counter-terrorism in recent years has been the prevention of violent extremism (P/CVE). Most of the EU resources have been allocated to Africa, which is justified by the potential impact that terrorism in the region can have on the EU. On the other hand, part of the growth is also explained by the fact that P/CVE projects have become 'trendy': they are politically relatively uncontroversial and inexpensive to implement, which is why the EU funds these projects also in many other areas of the world. It is therefore highly possible that they are being carried out in countries whose strategic importance from the point of view of the EU is small or even non-existent and where the projects will therefore remain separate from the broader foreign and security policy activities of the EU. However, verifying this assumption would require further research on the targeting and effectiveness of P/CVE projects.

It is interesting that, on the very issue that is perhaps the most visible and worrying for ordinary EU citizens, the EU has had difficulties to act in unison. The question of returning European ISIS volunteers has aroused strong feelings in many EU countries, which has increased internal political pressure to keep the reins in the hands of each Member State. As a result, it has been difficult or impossible to agree on common policies and measures. In principle, this nationally oriented policy is understandable for some EU countries, such as France. A large number of volunteers have left France for ISIS, the jihadi networks in the country are already extensive, and several terrorist attacks have been carried out in different parts of France in recent years. The threat that the returning foreign fighters pose to France is therefore very different from that of Finland, where merely a few dozen people are involved. However, Member State-centred approaches often ignore the fact that freedom of movement within the EU applies to all foreign fighters who have returned, making foreign fighters a shared challenge. Jihadi networks do not respect borders, and extreme ideologies are also easily spread over the Internet, so the fate of European ISIS volunteers and their family members may well radicalise EU citizens even if they are no longer allowed back to Europe.

However, the EU is doing significant work in some sectors on the issue of foreign fighters. One of these is the harmonisation of methods related to the use of battlefield evidence, where Eurojust has played a key role. In the history of EU integration, political challenges, such as those visible in the case of the foreign fighters, are more prone to slow down cooperation than to hinder it altogether. It is therefore to be assumed that, despite the challenges posed by the issue of returning ISIS volunteers, the authorities in the Member States have a desire to develop joint counter-terrorism measures further, as the EU has already shown that it adds value to the actions of the Member States.

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DEVELOPMENT, STRUCTURES AND ACTIONS

Terrorism is one of the most significant security threats in Europe. As it is transnational in character, countering it requires both cooperation between EU member states and widespread external action. This report examines the latter by focusing on the concepts, development, actors and structures, as well as the practices of the EU's external action on counter-terrorism.

The EU's external action on counter-terrorism is performed in four different frameworks: diplomacy, crisis management, external aid, and the external action of the EU's internal security agencies. All of these have their own policy-making structures with different actors and mandates, and hence the overall picture is complex. Several ongoing institutional reforms add to the complexity.

Although the EU's external action on counter-terrorism has its challenges and limitations, the EU has shown that it is capable of adapting its approach to changing needs. The EU can add value to the counter-terrorism action of its member states by developing and promoting common concepts and practices, maintaining an overview of the threat, and facilitating cooperation with different partners. However, the EU's external action on counter-terrorism is dependent on the ability of the member states to agree on common goals and the ability of the different EU actors to coordinate their actions. /