

## Policy Department External Policies

# HOMELAND SECURITY AND THE EUROPEAN SECURITY STRATEGY

## LINKING THE INTERNAL AND EXTERNAL DIMENSIONS OF EU COUNTER-TERRORISM POLICY

SECURITY AND DEFENCE

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## Glossary

AFSJ	Area of Freedom, Security and Justice
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
ASEM	Asia-Europe Meeting
AU	African Union
BfV	Bundesamt für Verfassungsschutz (German Federal Office for the Protection of the Constitution)
BKA	Bundeskriminalamt (German Federal Office of Criminal Investigation)
BWC	Biological Weapons Convention
CBRN	Chemical, Biological, Radiological and Nuclear Weapons
CDU	Christlich Demokratische Union (Christian Democratic Union Germany)
CFSP	Common Foreign and Security Policy
CIC	Civilian Intelligence Cell
CONTEST	Countering International Terrorism: The United Kingdom's Strategy
COREPER	Committee of Permanent Representatives
COTER	CFSP working group 'Terrorism – International Aspects'
CRT	Civilian Response Team(s)
CSI	Container Security Initiative
DG	Directorate General
DHS	Department of Homeland Security (US)
DoD	Department of Defence (US)
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
EP	European Parliament
EPCIP	European Programme for Critical Infrastructure Protection
ESDP	European Security and Defence Policy
ESS	European Security Strategy
ETA	Euskadi Ta Askatasuna
EU	European Union
EUSC	European Union Satellite Centre
FATF	Financial Action Task Force
FEMA	Federal Emergency Management Agency (US)
FID	Foreign Internal Defence (US)
FRONTEX	EU Border Security
GWOT	Global War on Terror
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organisation
IED	Improvised Explosive Devices
IfS	Instrument for Stability
IRA	Irish Republican Army
JCLEC	Jakarta Centre for Law Enforcement Co-operation
JHA	Justice and Home Affairs
JLS	Justice, Liberty and Security
JTAC	Joint Terrorism Analysis Centre (UK)
LIBE	Committee on Civil Liberties, Justice and Home Affairs, European Parliament
NATO	North Atlantic Treaty Organisation
OPCW	Organisation for the Prohibition of Chemical Weapons

PNR	Passenger Name Record
PSC	Political and Security Committee
SitCen	EU Joint Situation Centre
TE-SAT	EU Terrorism Situation and Trend Report
TEU	Treaty of the European Union
TFPC	EU Police Chiefs Task Force
TWG	Terrorism Working Group
UK	United Kingdom
UN	United Nations
US	United States
VIS	Visa Information System
WCO	World Customs Organisation
WMD	Weapons of Mass Destruction

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## **Executive Summary**

The challenge of terrorism is urgent, yet complex and uncertain. It is against this difficult background that the European Union and its 27 Member States have sought to co-ordinate and implement effective counter-terrorism policies. This study asks how the EU can forge a useful and durable link between its internal security requirements and its external security objectives, in order to ensure that the EU's response to the challenge of terrorism is as comprehensive and effective as possible.

### ***1. The 'new' terrorism in Europe – challenges ahead***

The first section of the study begins by examining the wide-ranging nature of the terrorist threat to the EU, and then goes on to explore how best to detect, interdict and punish terrorists: through information gathering and sharing; effective law enforcement; protection of vulnerable infrastructure; preparations for rapid recovery from any attack; and finally, the need to address the political, economic and social root causes of terrorism.

### ***2. A 'European' Way?***

The second section considers whether a 'Homeland Security' policy, similar to the one pursued by the US, would be an appropriate model for the EU in bridging the internal-external policy divide? The US policy framework is examined in detail, as is the EU's current approach to internal security and counter-terrorism. Although there have been important areas of convergence in transatlantic approaches to counter-terrorism, there ought to be more scope for information and intelligence sharing and for the transfer of counter-terrorist best practices. The study addresses the relationship between internal and external security policy, and concludes that the EU does not have a coherent counter-terrorist policy. Instead, its policy framework is fragmented and *ad hoc*, and lacks a disciplined, unifying strategic concept.

### ***3. Ensuring effectiveness and coherence***

The third section looks at possible solutions. Conceptual coherence could be pursued around the concept of 'human security': an idea that appears compatible with the EU's role as a multilateral actor, and one that could also provide a credible bridge between internal and external security policy. Part of the solution must also be organisational; there is a pressing need for greater policy coherence - 'horizontal', 'vertical' and 'inter-governmental' - within and between the EU institutions, between the EU and member states, and among the member states themselves. If coherence can be achieved on all these levels, the EU would be better placed to involve itself more productively with other multilateral organisations such as the UN and NATO.

### ***4. Conclusions and Recommendations***

The EU is equipped with a variety of instruments and is currently developing new capabilities in order to address terrorism in a more targeted way. Law enforcement co-ordination and sharing of intelligence information are two cornerstones of current EU *internal* counter-terrorism activities. There are wide disparities in the style and quality of intelligence collation and analysis across the EU, however. The sharing of terrorism-related information has proved to be difficult, with the notable exception of Europol, which is demonstrating that Member States can indeed work together on matters of domestic security.

With regard to *external* counter-terrorism policies, the EU has gradually and continuously expanded and diversified the scope of its activity since 2001. In line with its traditional understanding that terrorism is a special kind of crime (and not a military matter) the EU has sought to enhance its role as an international actor in the JLS area – in the quality of its policy responses and through better coordination of intra-institutional decision-making structures and procedures. The ‘*Prevent*’ and ‘*Respond*’ pillars in its Counter-Terrorism Strategy are the two areas where the EU has made the greatest efforts to enhance the internal-external link.

For instance, under the ‘*Respond*’ pillar, the EU is currently developing its (civilian and military) rapid reaction, crisis management and disaster response capabilities, particularly in the ESDP framework. Nevertheless, an ‘integrated’ security approach, which ‘intrinsically’ links internal and external aspects of security, has yet to be fully realised. The measures applied in the EU’s external counter-terrorism practice show a mismatch between immediate and short-term stabilisation (security export) efforts in third countries on the one hand, and long-term measures addressing the structural conditions and root causes of terrorism on the other, with a clear preference for the former.

Altogether, the European Community is currently providing around €400m of counter-terrorism-related external assistance to approximately 80 third countries. These activities are backed by two newly established financial instruments: the Instrument for Stability (IfS) and the Civil Protection Financial Instrument. Both instruments provide for Community assistance to EU activities with a clear security dimension. However, although elements from one Pillar have been introduced in another, a real cross-pillarisation of decision-making structures with regard to JLS objectives has yet to happen.

Long-term countermeasures in the fight against terrorism are more indirect in nature and encompass broader activity in the area of development, ‘good governance’, institution-building, legal assistance and crises prevention in third countries. However, the various practical measures are not well integrated, so that the desired comprehensive approach is not fully realised in practice.

In light of the analysis, the study offers a series of policy recommendations. These can be summarised thus:

1. In order to address the transnational dimension of terrorism, the EU needs to develop further its comprehensive, multilateral approach. It should deepen transatlantic co-operation and seek ways to improve the sharing of best practice with the US. It should also strengthen the capabilities of third states to tackle the root causes of terrorism.
2. The EU needs greater conceptual clarity as to how to combat terrorism outside its territory. This requires decisions on broader preventive measures and a long-term commitment to stabilisation and sustainable modernisation, including development aid in connection with equitable economic relations.
3. As it encompasses the underlying causes related to inequality, exclusion and marginalisation in third countries, the concept of Human Security could serve to bridge the conceptual gap. It could, for example, be used as a guideline for the EU in managing its JLS assistance in the field of counter-terrorism, and function as a ‘safeguard’ when strengthening the law enforcement capabilities of third states.
4. The EU needs to address the lack of institutional coherence and improve cross-pillar coordination in JLS issues.
5. The EU should accept that terrorism within the EU is triggered for a number of reasons. ‘Home-grown’ terrorism is rarely orchestrated by transnational terrorist networks, and the EU should continue to gather knowledge about the various motivations leading to

radicalisation and terrorism in order to improve and adapt the external components of its counter-terrorism strategy accordingly.

6. Where terrorism *is* motivated by the emergence and persistence of external conflicts, it ought to be the EU's primary goal to prevent such conflicts early on. The EU should increase its commitment to developmental issues and human rights, as well as address issues relating to 'good governance' in third countries.
7. The EU must better balance its policies in order to tackle the root causes of terrorism. Long-term structural improvements may also mitigate the radicalisation and recruitment problems within third states, particularly where these are rooted in deprivation.
8. Short-term civil-military interventions in crises can help to prevent the imminent outbreak of violent conflicts or help to stop or mitigate the impact of those that have already broken out. In particular circumstances, short-term interventions may also prove beneficial for the prevention of terrorism.

### **Strengthening the role of the European Parliament**

The following recommendations are specifically aimed at the European Parliament (EP):

1. The Commission and the Council should regularly inform the EP about the practical implementation of the EU's Counter-Terrorism Programme. The EP, in turn, should explore possibilities for improving the EU's policy responses.
2. The EP should continue to draw particular attention to the preservation of civil liberties and human rights in the difficult calibration of freedom and security in the fight against terrorism.
3. It is imperative that the Council consults the EP prior to the conclusion of international agreements on police and judicial co-operation in criminal matters.
4. The EP should insist that spending on ESDP operations funded by the EU budget are planned and executed according to the principles of the Human Security approach.
5. With regard to assistance programmes or budget lines that explicitly include a security dimension, the EP should carefully examine their effectiveness and coherence and ensure that more emphasis is made on long-term preventive engagement.

The EP, having supported the creation of a European office to assist victims of terrorism, should consider how such forms of assistance could be improved globally.



# Homeland Security and the European Security Strategy: Linking the internal and external dimensions of EU counter-terrorism policy

## Introduction

The terrorist attacks of 11 September, 2001 ('9/11') in New York have substantially changed the worldwide perception of the threat which emanates from contemporary terrorism. Insofar as they displayed a global dimension of terrorism, the attacks of September 2001 and the destructive potential they exhibited marked a step change in the terrorist threat. New York, Djerba, Istanbul, Jakarta, Madrid, London, Kabul, Baghdad all became targets for this 'new' form of terrorism - characterized by its ability to transcend borders and to occur at any time at any place in the world.

Particularly after the Madrid bombings in March 2004 it became clear that Europe had also become a target of this new form of terrorism. European policy-makers started to perceive this terrorism as a severe threat to the EU's security and started to increase its counter-terrorism efforts considerably. But how can the EU react adequately to this new terrorist threat and effectively secure European citizens from terrorism when the attacks are perpetrated by people living in the EU (even though their inspirations largely stem from outside)?

Today, it is generally agreed among policy-makers worldwide that internal and external security are intertwined and, thus, "the effectiveness of internal action often depends to a large extent also on parallel external action"<sup>1</sup>. The new terrorist threat amply demonstrates that policy-makers need to "transform" their policies "in ways that are more attuned to 21st century challenges"<sup>2</sup>.

In fact, those affected by the new terrorism have started to reconsider their policy responses. The United States developed a particular 'Homeland Security' approach, which concentrates on domestic (internal) action to protect US territory. With the establishment of the Department of Homeland Security (DHS), the US has, to a large extent, centralised those authorities assigned to cope with the terrorist threat domestically. The goal is to reduce America's vulnerability to terrorism, to minimise the damage caused by terrorist attacks and to recover from any terrorist attacks that do occur. This civil, essentially inward-looking 'Homeland Security' approach is complemented by an external strategy of 'Homeland Defence', its objective being the protection of US interests and the fighting of the US's enemies abroad. Altogether, the US sees itself in a 'war on terror', which has to be fought out – if necessary – by the application of 'pre-emptive strikes' and the induction of 'regime change' in order to bring about security and 'peace'.

In Europe, however, terrorism is perceived more as criminal activity and its management as a matter of law enforcement and bringing about justice. European counter-terrorism policy, therefore, traditionally lies in the hands of the police, intelligence communities and the judiciary. It is no wonder that in the context of the EU integration, counter-terrorism concerns – although still mainly a responsibility of the Member States – have also become part of the common legal framework in the field of Justice and Home Affairs (JHA) or Justice, Liberty and Security (JLS). This domain, in turn, constitutes the 'Area of Freedom, Security and Justice' (AFSJ) – or, instead,

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<sup>1</sup> Monar, Jörg, 'The EU as an International Actor in the Domain of Justice and Home Affairs', *European Foreign Affairs Review* (9) 2004, p. 395.

<sup>2</sup> Hamilton, Daniel S., 'Introduction: Transforming Homeland Security: A Roadmap for Transatlantic Alliance', in: Brimmer, Ester (ed.), *Transforming Homeland Security: US and EU approaches*, Center for Transatlantic Relations, Washington 2006, p. ix.

an ‘EU homeland’ –, which has progressively been developed in the Treaties of Maastricht, Amsterdam and Nice.

Already in 1999, the Tampere Council acknowledged that “all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the area of freedom, security and justice. Justice and Home Affairs concerns must be integrated in the definition and implementation of other Union policies and activities”<sup>3</sup>. However, the focus at that time was more on challenges originating from organised crime, drug trafficking, and illegal migration than on terrorism. It was only after the 9/11 attacks that the EU perceived the terrorist threat as particularly virulent, and it took another three years until the EU started to develop a more systematic counter-terrorism programme. Since the train bombings in Madrid in 2004, the EU has made considerable efforts to adapt its counter-terrorism policies to the ‘internal’ security requirements posed by the new terrorist threat. Its current approach is influenced not least by the perception that the Union must enhance its capacity to combat terrorism internationally.

The EU has since sought to enhance co-operation with third countries in countering the terrorist threat. It has been active in contributing to an international system of norms and rules working against terrorism and to integrate third states into a network of managerial counter-terrorism tasks. Simultaneously, the EU has tried to develop and reorganize civilian and military capabilities and to better harmonise them. These efforts are amply documented in a variety of Council resolutions, strategy papers and decisions adopted since 2004 at the EU level. The EU’s Counter-Terrorism Strategy (2005) reflects the most recent attempt to find an adequate response to contemporary terrorism in Europe.

But the reorganisation of counter-terrorism policies, particularly linking the internal and external dimensions, continues to be a big challenge for the Union. First, the EU is not a unitary actor, but consists of 27 member states that display different levels of integration in the field of JLS. The issue of counter-terrorism both internally and externally is distributed across the three EU institutional pillars. Second, integrating the external dimension of counter-terrorism requires a thoughtful consideration of the policy objectives of the European Security Strategy (ESS) as the EU’s guideline to external action, as well as a reconsideration of the EU’s foreign policy instruments and their potential to contribute to the Union’s counter-terrorism efforts.

Therefore, the problem remains: How can the EU manage to link internal security requirements with external security objectives (outlined by the ESS) in order to make the Union’s policy response to the new terrorist threat more effective? Can the notion of ‘Homeland Security’ as it is understood and applied by the US help in reorganising and adjusting EU policy responses?

This study aims to inform Parliamentarians about the construction and evolution of the link between internal and external security in the EU’s current counter-terrorism approach. The study specifies the ‘EU’s way’ with regard to ‘Homeland Security’ and counter-terrorism and identifies major aspects that need to be considered in order to better focus and streamline the EU’s policy response to terrorism. In its conclusions and recommendations, the authors add a number of considerations on the role of the European Parliament in this respect.

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<sup>3</sup> European Council, ‘Presidency Conclusions’, Tampere, 15-16 October 1999, <http://presidency.finland.fi/netcomm/news/showarticle1457.html>.

## 1. The ‘new’ terrorism in Europe – challenges ahead

Terrorism is a well-known phenomenon in Europe. In the last third of the 20th Century, Europe faced a multitude of terrorist threats, which stemmed predominantly from separatist movements, ethno-nationalism or left-wing anarchism and right-wing extremism. In the new millennium, particularly the post-9/11 era, Europe has been confronted with a ‘new’ form of terrorism, which is religiously motivated and is infused with a radical Islamist ideology. Islamist militants have been active in Europe since the mid-1990s<sup>4</sup>. This form of terrorism, however, became increasingly virulent after 9/11 and has now become a priority for the law enforcement agencies of EU member states<sup>5</sup>. The terrorist plots and attacks carried out have included suicide bombings and are almost always aimed at causing mass fatalities and civilian casualties. Beyond this common ground, however, it is difficult to provide a truly specific assessment of the nature of this ‘new’ and currently evolving terrorism in Europe. Admittedly, this poses a considerable challenge to the development of appropriate counter-terrorism strategies.

### 1.1 The patterns of the ‘new’ terrorist threat

Taking a closer look at recent acts of terrorism such as the attacks in Madrid 2004 and London 2005 or the bomb plots uncovered in the UK 2006 and 2007 as well as in Germany 2007, the picture with regard to the terrorists’ motivations, organisational structures, and methods is a complex one. Generally speaking, there are two interpretations as to what constitutes the nature of the ‘new’ terrorist threat in Europe. These interpretations differ in their assessment as to whether terrorism is ‘externally’ driven and part of a ‘global jihad’ led by al Qaeda and affiliated groups, or whether it has its roots in a so-called ‘home-grown’ radicalisation of young Muslims or Muslim immigrants within European societies.

The first interpretation views Islamist-motivated terrorism in Europe as ‘international’ with al Qaeda and its ‘masterminds’ Osama bin Laden, Ayman al-Zawahiri and Abu Musab al-Zarqawi as a strategic and ideological centre of a global terrorist network. According to this interpretation, al Qaeda is the driving force behind today’s worldwide Islamist terrorism and exerts control over smaller terrorist cells all over the world, through which it operates. This appears to be true even after the decentralisation of al Qaeda, which took place after the invasion of Afghanistan by Western allies following 9/11, when the organisation lost its operational base in the region<sup>6</sup>.

Although decentralised, the network structure allows for procurement, the allocation of financial means from al Qaeda to the supporting cells, the dissemination of propaganda and recruitment of new members, as well as for the exchange of information and transfer of know-how through training. It is believed that motivations and interest structures in this network are oriented at the aims and goals of the al Qaeda-leadership – the global war (*jihad*) against the US and Western allies and the ‘liberation’ of Saudi Arabia from Western ‘occupation’<sup>7</sup>.

Following the first two major attacks in Europe after 9/11 – 2004 in Madrid and 2005 in London – and other plots uncovered in several European countries, government officials quickly established an external link and proclaimed that the attacks and plots were orchestrated by al Qaeda. The way in which these attacks and plots were executed was seen as proof of an al Qaeda connection. The simultaneous bomb attacks in Madrid and London, and the attempted destruction of 10 aeroplanes

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<sup>4</sup> Vidino, Lorenzo, *Al-Qaeda in Europe: The New Battleground for International Jihad*, New York 2005.

<sup>5</sup> Europol, *EU Terrorism Situation and Trend Report (TE-SAT)*, The Hague 2007, p. 17.

<sup>6</sup> Gunaratna, Rohan, ‘The Post-Madrid Face of Al Qaeda’, *The Washington Quarterly*, 27 (3) 2004, p. 93.

<sup>7</sup> ‘Jihad Against Jews and Crusaders’, World Islamic Front Statement, 23 February 1998, <http://www.fas.org/irp/world/para/docs/980223-fatwa.htm>.

travelling from the UK to the US, suggested that the plots and attacks were subject to a more comprehensive and complex strategic planning in the style of al Qaeda. This assessment was reinforced when al Qaeda, or more precisely individuals or groups who claimed to speak in the name of al Qaeda, claimed responsibility in the aftermath of these attacks and uncovered plots.

When European authorities started to investigate these attacks, they detected contacts and previous communication by the perpetrators with individuals in countries outside the EU; these discoveries were interpreted as clear links to al Qaeda. For instance, after the Madrid bombings, the Spanish police unraveled a multi-national network of radical Islamists originating from North Africa (Morocco, Tunisia, Syria), which the security services linked to al Qaeda<sup>8</sup>. Likewise, in the case of the London and Glasgow car bombings of July 2007, authorities linked the incident to “international elements” and associated the driver of one of the cars to an already convicted alleged high-level al Qaeda operative. Prime Minister Gordon Brown also stated that the perpetrators were associated with the organisation<sup>9</sup>.

Other interfaces between al Qaeda and the Europe-based terrorists are presumed, especially within radical Islamic centres in Europe such as the Finsbury Park Mosque in London, the Islamic Centre in Milan or the al Quds Mosque in Hamburg. European authorities suspect that al Qaeda recruiters have been operating in these places; using them as channels for networking and campaigning, as well as for providing resources and instruction to volunteers<sup>10</sup>. It has also been observed that al Qaeda-affiliated groups are currently collecting money in Europe in order to support like-minded insurgents in Iraq<sup>11</sup>. It was only confirmed recently that many of the plotters and perpetrators involved in Islamist-inspired terrorism travelled to Afghanistan and Pakistan where they were taught and trained in camps, which are likely to be run by al Qaeda and their associates<sup>12</sup>. In the recently detected cases of two German citizens and a Turkish resident of Germany, who were in the advanced stages of plotting bomb attacks, the head of the German Federal Crime Office called the links to al Qaeda ‘close’<sup>13</sup>. The suspects allegedly took part in terrorist training in Pakistan.

Generally speaking, these contacts with al Qaeda appear to be of a rather diffuse and indirect nature. Proof of a direct connection to al Qaeda or any broader network is missing or inconclusive in most cases. The investigation of the Madrid bombings, for example, suggested that the bombings were carried out by a local cell that was inspired by al Qaeda, but found no evidence that the organisation was really involved in the planning, financing or helped to carry out the bombings, let alone that it knew about the plans in advance<sup>14</sup>. After investigating the 2005 attacks in London, the UK Home Office came to the conclusion that the bombings occurred spontaneously, without any strategic ‘masterplan’, and were carried out by a self-activated small group of radicalised young men<sup>15</sup>. Likewise, a lawsuit against the trolley bombers in Germany

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<sup>8</sup> Fielding, Nick and Walsh, Gareth, ‘Mastermind of Madrid is key figure’, *The Sunday Times*, July 10, 2005; Nash, Elizabeth, ‘Mastermind’ of Madrid bombing goes on trial’, *The Independent*, February 16, 2007.

<sup>9</sup> Police avert car bomb ‘carnage’, BBC News 29 June 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6252276.stm](http://news.bbc.co.uk/2/hi/uk_news/6252276.stm); PM defiant over ‘al-Qaeda threat’, BBC News 1 July 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6258062.stm](http://news.bbc.co.uk/2/hi/uk_news/6258062.stm).

<sup>10</sup> Neumann, Peter R, ‘Europe’s Jihadist Dilemma’, *Survival* 48 (2) 2006, p. 73.

<sup>11</sup> Europol 2007, op. cit., p. 21-22. See also: Klas Kärstrand, ‘Money problems: Tackling terrorist financiers in Sweden’, *Jane’s Intelligence Review*, February 2007, p. 18-21.

<sup>12</sup> Leapman, Ben, ‘4,000 in UK trained at terror camps’, *Sunday Telegraph*, 15 July 2007; Landler, Mark and Kulish, Nicholas, ‘3 arrested in Germany planned ‘major’ terror attacks, police say’, *International Herald Tribune*, 5 September, 2007.

<sup>13</sup> Landler, Mark and Kulish, Nicholas, *Ibid*.

<sup>14</sup> Madrid bombing suspects charged, BBC News, 11 April 2006, <http://news.bbc.co.uk/2/hi/europe/4899042.stm>; Nash, Elizabeth, ‘Madrid bombers ‘were inspired by Bin Laden address’’, *The Independent*, 7 November 2006; Madrid bombers get long sentences, BBC News, 31 October 2007, <http://news.bbc.co.uk/2/hi/europe/7070827.stm>.

<sup>15</sup> Report of the Official Account of the Bombings in London on 7th July 2005, 11 May 2006.

(2006) on membership of a terrorist organisation had to be dropped due to insufficient evidence that more than the two already arrested men took part in the plot<sup>16</sup>.

Many observers, therefore, contest the al Qaeda-led view of terrorism in Europe. Instead, they argue that the current terrorist threat in Europe is “home-grown” and that the terrorists perpetrating attacks are “self-starters” – meaning that they “conceive, plan, finance and execute” their attacks autonomously<sup>17</sup>. This alternative interpretation is underpinned by another specific characteristic of most of the attacks committed in Europe - namely that the arrested perpetrators and plotters nearly all grew up or had lived in European societies for several years. The 2005 London bombers, for instance, were all British citizens. In the case of the attempted bombings in Germany 2007, the police arrested two German Muslim converts and a Turkish resident of Germany. Seemingly, first- or second-generation immigrant diasporas – Moroccans in Spain, Pakistanis in the UK, Turks in Germany and the Netherlands, and the like – form a significant proportion of terrorists in Europe<sup>18</sup>.

They appear as individuals who are well-adjusted to Western societies<sup>19</sup>; although there is also evidence that some of them had already become small-time criminals prior to the attacks. It cannot be ruled out that this kind of small-scale criminality (vehicle-related crime, forgery of identity and travel documents, and the use of false credit cards) was linked to the illegal financing of the planned attacks<sup>20</sup>. In any case, it must be noted that the radicalisation of these individuals is not a consequence of external recruitment, but takes place rapidly, from the bottom-up and in smaller, personalised ‘in-groups’ of friends, peers or cliques<sup>21</sup>.

The motivations for ‘home-grown’ terrorism are complex and difficult to grasp. The information, which arrested terrorists have supplied about themselves, does not reveal a coherent picture. The 2005 London bombers, for instance, affirmed that they wanted to bring the war of the West against Muslims into Western cities, because they felt ‘responsible for protecting and avenging’ their ‘Muslim brothers and sisters’<sup>22</sup>. Undoubtedly, the US-led invasion of Iraq stimulated their frustration and resentment against the society in which they lived. The Madrid bombers acted to avenge the presence of Spanish troops in Iraq and Afghanistan<sup>23</sup>. Accordingly, the suspects from the UK aircraft plot were allegedly motivated by the war in Iraq and the situation in Afghanistan<sup>24</sup>. In contrast, the Lebanese students who placed suitcases with explosives onboard two regional trains in Germany in 2006 felt specifically angered by the publication of the Danish Mohammed cartoons in German newspapers<sup>25</sup>. In the final analysis, a mixture of religious, political and social motivating factors apparently accounts for the radicalisation of young immigrants or Muslims in Europe. Frequently, their grievance is locally bound and connected to a personal feeling of exclusion as well as a general perception of an oppressed Muslim population in the world.

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<sup>16</sup> Libanese wegen versuchten Mordes angeklagt, Spiegel online, 20 June 2007, <http://www.spiegel.de/panorama/justiz/0,1518,489652,00.html>

<sup>17</sup> Kirby, Aidan, ‘The London Bombers as “Self-Starters”: A Case Study in Indigenous Radicalization and the Emergence of Autonomous Cliques’, *Studies in Conflict & Terrorism*, 30 (5) 2007, p. 418.

<sup>18</sup> Leiken, Robert S. and Brooke, Steven, ‘The Quantitative Analysis of Terrorism and Immigration: An Initial Exploration’, *Terrorism and Political Violence*, 18 (4) 2006, p. 503-521.

<sup>19</sup> Nesser, Petter, ‘Jihad in Europe - A survey of the motivations for Sunni Islamist terrorism in post-millennium Europe’, *FFI/RAPPORT-2004/01146*, p. 70; Whitlock, Craig, ‘Terrorists Proving Harder to Profile’, *Washington Post*, 12 March 2007.

<sup>20</sup> Europol 2007, *op. cit.*, p. 21-22.

<sup>21</sup> Kirby, *op. cit.*, p. 423; Sageman, Marc, *Understanding Terror Networks*, Philadelphia 2004, p. 154.

<sup>22</sup> London bomber: Text in full, BBC News, 1 September 2005, [http://news.bbc.co.uk/2/hi/uk\\_news/4206800.stm](http://news.bbc.co.uk/2/hi/uk_news/4206800.stm).

<sup>23</sup> Madrid bombers get long sentences, BBC News, *op. cit.*

<sup>24</sup> Europol 2007, *op. cit.*, p. 19.

<sup>25</sup> Europol 2007, *op. cit.*, p. 18.

Whereas security agencies and politicians initially promoted the scenario of an al Qaeda-led terrorism in Europe, there is now a growing understanding that ‘home-grown’ terrorism is playing an increasing role. It seems most likely that both phenomena exist *in parallel*. The nature of the relationship between al Qaeda and ‘home-grown’ terrorism, however, remains unclear. Proof that some of the ‘self-starters’ from the UK and Germany in fact travelled to Afghanistan and Pakistan, and are suspected of having visited Afghan or Pakistani terror camps there, refute the argument that they acted in total isolation. However, it is not clear on whose initiative the assumed links were generated, let alone the kind of support – other than training – that Europe-based Islamist radicals might have received from al Qaeda or affiliated terrorist groups. This especially accounts for support with planning, financial resources and technical devices.

A form of mutual stimulation, however, can be traced. This, in turn, creates growing ideological harmony between al Qaeda and potentially autonomous Europe-based Islamist radicals. If al Qaeda is perceived as a source of inspiration and a pattern for identification, it may have transformed itself from an organisation into a movement. At the same time, al Qaeda has been repeatedly making links to political issues or regional conflicts, which were not originally on the group’s agenda. Bin Laden’s recent attempt in his September 2007 video message to ‘re-launch’ al Qaeda as something close to an anti-globalisation movement may indicate that the al Qaeda leadership is trying to activate the destructive potential of self-starters for its own long-term goals. The US-invasion in Iraq, with the participation of a number of European countries, created an environment in Europe in which the ideological approximation between individual radicals and al Qaeda became possible. Reports from European intelligence services suggest that there appears to be fertile ground for such a terrorist movement to evolve in Europe.

## 1.2 Capabilities of Europe-based terrorists and the vulnerability of the EU

Despite the relatively small number of attacks perpetrated by Islamist radicals in Europe in comparison to other forms of terrorism<sup>26</sup>, it is these radicals who are defined as the source of the ‘new’ terrorism. The terrorist attacks in Madrid and London, which were executed with conventional explosives, demonstrated that the terrorists had been successful in causing maximum casualties and damage by using rather common and simple means. Their weapons consisted of conventional dynamite (as in Madrid) or so-called ‘Improvised Explosive Devices’ (IEDs), which are made out of everyday ingredients, such as nail-polish remover or fertilizer<sup>27</sup>. Such IEDs were not only used in the 2005 London bombings<sup>28</sup>, but were also intended to be used in the UK aircraft plot and the trolley bomb plot in Germany (both 2006)<sup>29</sup>. In the case of the terrorist incidents in London and Glasgow in July 2007, the plotters used car bombs crafted from liquid-gas canisters with nails, and connected to a mobile-phone-based detonator. The German converts (2007) also intended to use a peroxide-based liquid.

These explosives are not only simple to craft in technical terms, but their ingredients can be purchased easily in hardware stores and pharmacies. Instructions on how to build this type of bomb are readily available on the Internet. Their construction does not require any complex communications or logistics infrastructure. Most importantly, these weapons are cheap. It has been estimated that the explosives, which were used in the UK aircraft plot, would have cost no more than €15 per bomb. The estimated overall sum spent for the 2005 London bombings, including

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<sup>26</sup> See for instance the statistics from 2006 in Europol 2007, *op. cit.*, p. 13.

<sup>27</sup> Whitlock, Craig, ‘Homemade, Cheap and Dangerous: Terror Cells Simple Ingredients In Building Bombs’, *Washington Post*, July 5, 2007, p. A01.

<sup>28</sup> Report of the Official Account of the Bombings in London on 7th July 2005, 11 May 2006.

<sup>29</sup> Europol 2007, *op. cit.*, p. 18.

travel costs and equipment, accounted for approximately €1,000<sup>30</sup>. These figures amply demonstrate that the planning and execution of such attacks does not require major resources, let alone external financial resources.

So far, most of the Islamist terrorists have relied almost solely on homemade and low-tech bombs. However, potential plotters may seek to use bombs and weapons of far more destructive power, if they were equipped with the respective skills and sophistication. Counter-terrorism officials have been warning for years that internationally operating Islamist terrorists might be able to acquire and build chemical, biological, radiological or nuclear weapons (CBRN)<sup>31</sup>. This threat is reinforced by a growing diffusion of new technologies, which facilitates the building of more complex weapons, even for 'non-professionals'. A view into radical Islamist Internet forums, however, suggests that radical Islamists still face technological limitations, especially with regard to the construction of chemical and biological weapons. Online training and instruction material is rather unsophisticated and would at most allow for the deployment of a biologically or chemically enhanced, but at most low-intensity, device<sup>32</sup>.

Each of the CBRN categories offers terrorist groups a different portfolio of availability, delivery systems and effects, and overall utility. A well-funded terrorist group, particularly one with a long-term vision of conflict and with the intention not to bargain with an adversary but to inflict as much death and destruction as possible, might well be attracted to the most sophisticated chemical, biological and nuclear weapons, for all the technical and logistical difficulties associated with such devices. Even if only a remote possibility, the effects of such an attack would be devastating and clearly cannot be ignored by policy-makers and security specialists. But to concentrate on this level of threat might be to perpetuate the Cold War assumption that those interested in CBRN must inevitably be drawn to the most powerful and sophisticated end of the spectrum.

The uncomfortable possibility is that terrorist groups would not necessarily need a huge, Cold War-style effort to be effective. If the threshold of success is lowered, as it would be for many terrorist groups, then small, relatively simple chemical, biological, radiological and possibly even nuclear weapons could all prove tempting and, crucially, could all be perceived as more or less interchangeable means to the desired end. The first three of these weapon categories have each been described as a terrorist's 'weapon of choice', while a nuclear weapon might be described as the 'Rolls Royce option' to which only the wealthiest terrorist organization might aspire. The CBRN system thus offers all that might be required for a range of terrorist groups from the largest to the smallest, from the almost casual to the most determined and organized, and from the poorest to the best funded<sup>33</sup>.

### 1.3 The policy challenge ahead

Islamist-inspired terrorism involves a wide variety of actors, motivations, forms of organisation, strategies and potential targets. The nature of this threat ensures that Europe is experiencing a growing feeling of insecurity, as it becomes not only harder to predict where and when, but also how the next attack will take place. Therefore, a preventive approach is needed, which first, concentrates on the uncovering, tracing and prosecution of terrorist activity, not only with regard to international terrorist networks, but also with regard to 'home grown' terrorism; second,

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<sup>30</sup> Whitlock, *op. cit.*

<sup>31</sup> Stenersen, Anne, 'Chem-bio cyber-class: Assessing jihadist chemical and biological manuals', *Jane's Intelligence Review*, September 2007, p. 8.

<sup>32</sup> Stenersen, *op. cit.*, p.13.

<sup>33</sup> See Cornish, P., *The CBRN System: Assessing the Threat of Terrorist Use of Chemical, Biological, Radiological and Nuclear Weapons in the United Kingdom* (London: Chatham House, 2007).

includes the protection of vulnerable infrastructure, and third, also involves combating the root causes of Islamist terrorism in Europe and abroad.

1. *Detecting, tracing and prosecuting terrorist activity in Europe*: Information gathering, information sharing and law enforcement are cornerstones of a preventive counter-terrorism strategy. Intense tracing and prosecution increases the pressure on potential offenders. Due to the diffuse nature of the ‘new’ terrorism in Europe, security services face the problem of having to consider various scenarios and of needing to adjust their activities accordingly. The more remote possibility of a large-scale terrorist plot planned by an internationally-driven network must be taken into account as well as the occurrence of small-scale attacks executed with hand-made bombs. While it can be assumed that terrorist structures become more vulnerable to intelligence the larger and more complex they get, ‘home-grown’ terrorists pose a particular problem as they are much harder to profile. It has to be noted, however, that as yet, conventional law enforcement and intelligence methods, pursued on the basis of a given suspicion, have proved relatively successful in preventing terrorist activity in Europe<sup>34</sup>. It is doubtful whether treating all members of certain groups, such as Muslims, as suspects, without specific concrete suspicions can achieve satisfactory results.
2. *Protecting vulnerable infrastructure*: Infrastructure protection can be considered as a preventive measure inasmuch as it aims to reduce the potential damage caused by a terrorist attack in advance. Again the problem remains whether to prepare for many small-scale and very likely attacks with manageable consequences, or for large-scale attacks, which seem more remote possibilities but may cause severe damage.
3. *Preventing the root causes of Islamist terrorism*: The more knowledge and understanding of the real motivations of Islamist radicals is available, the better the prospects for identifying measures that can deprive terrorism of its breeding ground. Social, economic and political causes must be considered here. The key issues are why radical Islamists ‘go global’, even though their motivations are locally bounded, why ‘home-grown’ terrorism emerges in Western societies and what role ethnicity and the status of immigrants play in this respect, and, finally, how international and ‘home-grown’ terrorism are interlinked.

The challenge for policy-makers in the face of the high level of insecurity produced by the ‘new’ terrorist threat in Europe is to cover this broad range of requirements on the one hand, and – since state resources are always limited – to decide about an appropriate prioritisation of measures on the other.

## 2. A ‘European’ Way?

### 2.1 Comparison of US and EU Approaches: Introduction

The terrorist attacks of 9/11 marked a watershed in perceptions of the threat of international terrorism. Western governments, media and public opinion seemed unprepared for the attacks. There had, of course, been some warnings that the terrorist threat was evolving. In September 1999 the Hart-Rudman Commission judged that ‘terrorists, and other disaffected groups will acquire weapons of mass destruction and mass disruption, and some will use them. Americans will likely die on American soil, possibly in large numbers’<sup>35</sup>. And at about the same time the noted

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<sup>34</sup> Nesser, *op. cit.*, p.70.

<sup>35</sup> *New World Coming: American Security in the 21<sup>st</sup> Century, Major Themes and Implications, The Phase I Report on the Emerging Global Security Environment for the First Quarter of the 21<sup>st</sup> Century*, September 15, 1999, <http://www.fas.org/man/docs/nwc/nwc.htm>



terrorism analyst Bruce Hoffman argued that ‘the religious imperative for terrorism is the most important defining characteristic of terrorist activity today’<sup>36</sup>. Nevertheless, for the US, 9/11 was the dawn of a new era, described by Colin Powell as the ‘Post-post-Cold War world’<sup>37</sup>.

In the Bush Administration’s view, 9/11 represented a novel threat which called for a novel response. It duly declared a ‘War on Terror’; a choice of words which has shaped the international security debate ever since. The traditional understanding of terrorism as a form of bounded, yet violent, political negotiation no longer obtained. Terrorism was now either ‘expressive’ or ‘existential’. If expressive, political negotiation was irrelevant; the sufficient goal of terrorism was to object – as violently as possible – to the West and what it stood for. Existential terrorism, on the other hand, was driven by a political vision so fundamental and exclusive (nothing less, for example, than the collapse of Western civil society and democracy), that negotiation was impossible.

The US reaction to 9/11, and more broadly the US response to the threat of international terrorism, has dominated debate: but what of the rest of the West, and particularly the EU? Although US and EU policies have diverged in important aspects, they do not lack common characteristics or common goals. At the most basic level, although the US and the EU might adopt different language and strategies when describing and dealing with the post-9/11 terrorist threat, both sides can at least agree on the existence of an international terrorist threat and on some of its central features.

The purpose of this section is to identify these areas of convergence and divergence. The starting point for this comparative exercise should be the US Homeland Security process; both the core of the US response, and an important reference point in the evolution of EU counter-terrorist policies. Subsequently, we examine the EU’s internal security policy framework, with case studies of German and UK counter-terrorist policy, leading to a summary and comparison of US and EU approaches to terrorism after 9/11.

## **2.2 US Homeland Security and Homeland Defence**

In spite of a long experience of domestic terrorism in the US, including the Oklahoma City bombing in 1995, 9/11 was considered a moment of such gravity that nothing less than the transformation of US government would be necessary in order to ensure domestic security. US policy since 9/11 has been embodied in two, closely related terms – Homeland Security and Homeland Defence – which will be considered in turn.

### **2.2.1 Homeland Security: Objectives, Characteristics and Analysis**

According to the official US *Strategy for Homeland Defence and Civil Security*, the objectives of Homeland Security are straightforward enough, amounting to ‘a concerted national effort to prevent terrorist attacks within the US, reduce America’s vulnerability to terrorism, and minimize the damage and recover from attacks that do occur’<sup>38</sup>. Central to this approach was the creation of an Office of Homeland Security in the White House which subsequently became the Department of Homeland Security (DHS). The DHS was formally established on 1 March 2003, uniting 22

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<sup>36</sup> Hoffman, B., ‘Old Madness, New Methods: Revival of Religious Terrorism Begs for Broader US Policy’ in *RAND Review* (Winter 1998), p.1.

<sup>37</sup> Cited in Rees, W., *Transatlantic- Counter Terrorism Co-operation: The New Imperative*, (Oxon; New York: Routledge, 2006), p.8.

<sup>38</sup> *Strategy for Homeland Defence and Civil Security*, 5. The same form of words is used in the revised and updated *US National Strategy for Homeland Security* (Washington: Homeland Security Council, October 2007), p. 3.

US government agencies within a single new government department<sup>39</sup>. Although the prevention of terrorist attacks is its 'primary mission', the DHS also has responsibility to prevent, prepare for and respond to a wider, non-terrorist range of domestic disasters and emergencies<sup>40</sup>. The US National Strategy for Homeland Security of October 2007 uses similar terminology, referring to the need to prevent, protect and respond, and to 'continue to strengthen the foundation to ensure our long-term success'<sup>41</sup>.

With centralised authority, a unified budget, and a staff of some 180,000, the core task of the DHS is to co-ordinate the US homeland security effort, particularly at the level of first response. The DHS operates at the highest levels of US government; the Homeland Security Secretary is a member of the Presidential Cabinet and thus at the heart of the executive. Aside from these procedural characteristics, it is important to note that Homeland Security remains the responsibility of the civil authority of the US government; there is no explicit role for US military power in the pursuit of domestic security (other than through the deployment of the National Guard).

Yet the realignment of the US national security architecture after 9/11 can only be understood as a fundamental change in the organisation of government in the US in response to an external threat, comparable with the development of a national security strategy in the late 1940s, in the face of the perceived threat from the Soviet Union and international Communism<sup>42</sup>. As the 'lead Federal agency for homeland security'<sup>43</sup>, the budget of the DHS has grown year on year, with its very large staff drawn from a variety of government departments, agencies and other backgrounds. In some cases, entire agencies have been transferred to the DHS, most notably the US Secret Service (formerly part of the Treasury Department) and the Federal Emergency Management Agency (FEMA). This organisational restructuring has been a central feature of the response to 9/11. Inter-agency co-operation was thought to have been deficient before 9/11, as revealed by *The 9/11 Commission Report* of July 2004. Thus, by bringing all relevant government departments and agencies, such as the Transportation Security Administration and the US Coast Guard, under a single authority, it was intended that in future the response to a crisis or emergency would be far more co-ordinated, efficient and effective<sup>44</sup>.

By incorporating the work of so many different agencies, ranging from intelligence services to immigration security to nuclear detection, the US Homeland Security approach seeks to be comprehensive and to incorporate all relevant agencies in the national struggle against terrorism. This was very much a new approach. Although the US had faced terrorism in the past, the perception of a *sustained* terrorist threat was new, and it was this perception which gave rise to a radical departure in the articulation and pursuit of national security in the US<sup>45</sup>.

Any analysis of the evolution of Homeland Security in the US must begin with some understanding of the political and moral motivation behind it. In early October 2001 President Bush set the tone for what was to come: 'The battle is now joined on many fronts. We will not waver; we will not tire; we will not falter; and we will not fail. Peace and freedom will prevail'<sup>46</sup>.

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<sup>39</sup> US Department of Homeland Security: [http://www.dhs.gov/xabout/history/gc\\_1172594004145.shtm](http://www.dhs.gov/xabout/history/gc_1172594004145.shtm)

<sup>40</sup> *Strategy for Homeland Defence and Civil Security*, op. cit., p.5.

<sup>41</sup> *National Strategy for Homeland Security*, p.1.

<sup>42</sup> See Seiple, C., 'Homeland Security Concepts and Strategy', *Orbis* (No. 46, Spring 2002), pp.261-262.

<sup>43</sup> *Strategy for Homeland Defence and Civil Security*, p.5.

<sup>44</sup> The DHS organisation is set out at [http://www.dhs.gov/xabout/structure/editorial\\_0644.shtm](http://www.dhs.gov/xabout/structure/editorial_0644.shtm)

<sup>45</sup> See Stevenson, J., 'Transatlantic Counter-Terrorism Co-operation after 11 September 2001' in K. von Hippel (ed.), *Europe Confronts Terrorism*, (Basingstoke: Palgrave Macmillan, 2005), p.216.

<sup>46</sup> Cited in *Strategy for Homeland Defence and Civil Security*, p.40.

Thereafter, the US-led ‘Global War on Terror’ (GWOT) has been guided by rhetorical positioning of this sort.

In some quarters the US position is considered an amusing misuse of language, and in others (particularly those sceptical Europeans weary of years of national counter-terrorism strategies), a rather naïve stance. Others, of course, consider the US language and stance to have been inflammatory. What should not be doubted, however, is the strength of feeling in the Bush Administration and in large sectors of US public opinion, for which the GWOT will be a long-running campaign to engage and destroy international terrorism. Homeland Security has the GWOT at its core, and GWOT is best understood as an ideological and ‘existential’ response to the equally fundamental threat posed by al Qaeda and similar organisations.

In many respects, the Bush Administration has chosen to wage the GWOT in an ideological framework similar in style and scope to that which shaped US foreign, security and defence policy during the Cold War. The decision to respond in this way and at this level has struck many critics as both excessive and inappropriate; many have argued that a less highly-charged stance, and one which treated 9/11 as an act of criminality rather than war, would have been more suitable. Although the US itself has not been attacked again since 9/11, there remains widespread fear that another terrorist attack is inevitable. This sense of vulnerability fuels the conviction that a strong US counter-terrorism stance remains necessary.

The primary goal of US homeland security is prevention and the identification and closing of vulnerabilities before they can be exploited. This has come to be a central defining feature of the US approach, whereby the traditional reliance on intelligence reporting and threat assessments has given way to the requirement to ‘plug as many conceivable vulnerabilities as possible’<sup>47</sup>. Whether the DHS will succeed in this task, and whether the US is made safer overall as a result of the establishment of the DHS, remains to be seen. The high staff turnover of the DHS, together with the intrinsic difficulty of centrally co-ordinating something as vast and complex as the US domestic security infrastructure, suggests that the goal of invulnerability to terrorist attack might be little more than an aspiration<sup>48</sup>.

### **2.2.2 Homeland Defence: Objectives, Characteristics and Analysis**

US Homeland Defence has not received the same level of public and media attention as Homeland Security, although it has been under this rubric that some of the more high-profile and controversial aspects of US foreign and security policy have developed over the past six years. The objective of Homeland Defence is to protect US interests and to fight the US’s enemies abroad, rather than on US soil: ‘Security at home ultimately is related to security abroad: as partners protect and defend their homelands, the security of our own Homeland increases’<sup>49</sup>. This approach is usually described as Foreign Internal Defence (FID), and is driven by the claim that by assisting friendly governments in third countries in their internal security, US security interests will also be promoted. It is at this level that the US military has become decisively engaged in the GWOT, and it is scarcely surprising, therefore, to find a US Air Force document describing the GWOT as ‘taking place largely in the FID arena’<sup>50</sup>. FID has been the motivating factor behind US involvement in third countries, particularly Afghanistan, since 9/11, and has long been a feature of the debate surrounding US motives for the invasion of Iraq in 2003.

The core characteristics of Homeland Defence are thus clear enough:

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<sup>47</sup> Stevenson, ‘Transatlantic Counter-Terrorism Co-operation’, p.218.

<sup>48</sup> Ibid.

<sup>49</sup> *National Strategy for Homeland Security*, p.5.

<sup>50</sup> Peck, A.G., in *Foreign Internal Defence: Air Force Doctrine Document 2-3.1*, 15 September 2007, p.ii.

*“Homeland Defence is the protection of US sovereignty, territory, domestic population, and critical defence infrastructure against external threats and aggression, or other threats as directed by the President. The Department of Defence (DoD) is responsible for homeland defence.”<sup>51</sup> The DoD’s task is to undertake military missions which will ‘deter, prevent, and defeat attacks on the US, its population, and its defence-critical infrastructure.’<sup>52</sup>*

It is conceived that Homeland Defence operations should take place where the need arises, rather than on the territory of the US:

*“Our most important contribution to the security of the US homeland is our capacity to disrupt and defeat threats early and at a safe distance, as far from the US and its partners as possible. Our ability to identify and defeat threats abroad – before they can strike – while making critical contributions to the direct defence of our territory and population is the sine qua non of our nation’s security.”<sup>53</sup>*

Thus, the two defining features of Homeland Defence and FID operations are that they should be preventive in character and should take place as from US soil as possible; in military vernacular, the US position is usually described as ‘taking the fight to the enemy’. The GWOT is understood to be a ‘different kind of war’<sup>54</sup>, one in which perceived security vulnerabilities can in part be managed by the long distance projection of US military power.

Analysis of US Homeland Defence and FID operations must first acknowledge that these operations are regarded essentially as efforts to secure US *national* security and are in many respects the overseas arm of the US DHS. This has had the effect of incorporating the Department of Defence far more closely in US counter-terrorism policies than might otherwise have been the case:

*“The Department of Defence must change its conceptual approach to homeland Defence. The Department can no longer think in terms of the “home” game and the “away” game. There is only one game. The Strategy for Homeland Defence and Civil Support is a significant step toward this strategic transformation. Defending the US homeland - our people, property, and freedom - is our most fundamental duty. Failure is not an option.”<sup>55</sup>*

Both Homeland Security and Homeland Defence will remain central features of the GWOT. While there remain semantic, logical and military doctrinal difficulties in declaring ‘war’ on terrorism (a tactic, after all, rather than an enemy), it is clear that the Bush Administration has been following a clearly defined course of action. As President Bush asserted in June 2002:

*“The war on terror will not be won on the defensive. We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge. In the world we have entered, the only path to safety is the path of action. And this nation will act.”<sup>56</sup>*

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<sup>51</sup> *Strategy for Homeland Defence and Civil Security*, p.5.

<sup>52</sup> LaCrosse, ‘Homeland Security and Homeland Defence’, p.5.

<sup>53</sup> *Strategy for Homeland Defence and Civil Security*, p.10.

<sup>54</sup> *US National Strategy for Combating Terrorism*, September 2006, 1; *A Rescue Force for the World: Adapting Airpower to the Realities of the Long War*, found at:

<http://www.airpower.maxwell.af.mil/airchronicles/apj/apj07/fal07/dipaolo.html>

<sup>55</sup> *Strategy for Homeland Defence and Civil Support*, op. cit., p.40.

<sup>56</sup> *Ibid.*, p.10.

The effectiveness of this strategy can, of course, be questioned, both in terms of the size and complexity of the strategy, and in terms of the effect it is expected to have on the adversaries of the US. Hoffman, for example, has recently taken issue with President Bush's assertion that al Qaeda is 'on the run', arguing in contrast that:

*"The organization is not on the run but on the march... Rather than "al Qaeda R.I.P.," we face an al Qaeda that has risen from the grave. It has been able to adapt to the changes imposed on its operations by the US-led war on terrorism and re-establish its command and control over international terrorism from the sanctuary it has established in Pakistan's North Waziristan."*<sup>57</sup>

### **2.2.3 Homeland Security and Homeland Defence: Summary**

Homeland Security and Homeland Defence operations are two inseparable parts of one overall strategy – the 'Global War on Terror'. A number of questions present themselves concerning US counter-terrorism policy and operations since 9/11. In general, have recent efforts to reduce America's vulnerability to terrorism been effective? More specifically, have FID operations diminished or increased the threat of terrorist attacks on the US? And has the 'militarisation' of the GWOT been appropriate, or will it prove to have been a misjudgment? Another question concerns the highly stylized rhetoric which has suffused the GWOT. President Bush has asserted that "Winning this war will require the determined efforts of a unified country... We will defeat our enemies. We will protect our people. And we will lead the 21<sup>st</sup> Century into a shining age of human liberty"<sup>58</sup>. It remains to be seen for how long this rhetoric will reflect and unite US public opinion, and indeed whether it will inspire allies of the US to participate in the GWOT. More importantly, perhaps, by some accounts the Bush Administration's rhetoric has served to elevate the struggle with al Qaeda to the highest possible level of strategy, and in so doing has helped to delineate both the nature and the cost of terrorist attacks on the US<sup>59</sup>.

### **2.3 EU Internal Security: Objectives, Characteristics and Analysis**

The EU's response to the 9/11 attacks has been one of adaptation rather than transformation. While some novel legal developments have been seen, and while responsibilities for the security services of EU member-states have been enlarged, no clean break with the past can be discerned in EU policy, certainly not on the level seen in the US. The European internal security response has adopted a far more modest profile than the US-led GWOT. Predictably, as a supranational organisation, the EU has pursued a multilateral approach, one which has inevitably appeared more cautious and even hesitant than its US equivalent.

The first objective of EU internal security has been to demonstrate relevance and competence. As Gijs de Vries, former EU counter-terrorism co-ordinator, has noted:

*"Citizens - whether sceptical or supportive of European integration - expect the EU to play its full part in combating terrorism. The Council, the Commission and the Parliament are determined to honour these expectations."*<sup>60</sup>

In more concrete terms, the objective of the EU since 9/11 has been to develop a counter-terrorism policy appropriate to the new threat. Counter-terrorism policy has evolved primarily at the member-state level, although the EU itself has gradually become more engaged; the EU Counter-

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<sup>57</sup> Hoffman, B., 'Remember Al Qaeda? They're baaack', *Los Angeles Times*, 20 February 2007, p.2.

<sup>58</sup> Cited in *US Department of Homeland Security Budget-in-Brief 2008*, p.3.

<sup>59</sup> Pillar, P.R., *Terrorism and US Foreign Policy*, (Washington D.C.: Brookings Institution Press, 2003), p.xliii.

<sup>60</sup> De Vries, 'The EU's Role', 9.

Terrorism Action Plan of late September 2001 insists that “The fight against terrorism will, more than ever, be a priority objective of the European Union”<sup>61</sup>.

In the immediate aftermath of 9/11, EU-level counter-terrorism objectives were largely to bring about a central, more concerted approach, with supranational action helping to co-ordinate the activities of member states in order to improve safety and security overall. Within just two years, however, the EU’s language had become more ‘activist’; reflecting a growing awareness that a comprehensive, global approach to counter-terrorism would require many of the broad range of competences offered by the EU. Thus, the 2003 European Security Strategy claimed that ‘As a union of 25 states with over 450 million people producing a quarter of the world’s (GNP), and with a wide range of instruments at its disposal, the EU is inevitably a global player’<sup>62</sup>.

In the 2005 EU counter-terrorism strategy document, the language had hardened somewhat:

*“Terrorism is a threat to all States and to all peoples. It poses a serious threat to our security, to the values of our democratic societies and to the rights and freedoms of our citizens, especially through the indiscriminate targeting of innocent people. Terrorism is criminal and unjustifiable under any circumstances.”*<sup>63</sup>

By 2007 EU language had become stronger still, and arguably closer to that emanating from national governments. The EU Terrorism Situation and Trend Report (TE-SAT), published for first time in 2007, argued that “The EU as a political institution is increasingly being identified as a symbol and has already become threatened and targeted by terrorists”<sup>64</sup>. If substantiated, this claim could prove to have been something of a watershed in the evolution of EU counter-terrorism policy. After all, if the EU *itself* can be said to be a target for terrorists, then the development of a comprehensive and competent EU-level counter-terrorism policy becomes more difficult to resist. The most prominent characteristic of EU counter-terrorism has been multilateralism. The ESS insists that:

*“In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well functioning international institutions and a rule-based international order is our objective.”*<sup>65</sup>

By this approach, counter-terrorism should be an international effort in which the strengths of international institutions as well as national governments are all exploited to the general benefit. The evolving EU security policy ethos is founded upon the idea of a ‘comprehensive or holistic approach to security’, in which the EU and member states will work together to tackle security concerns, will act in conjunction with other multilateral bodies such as the United Nations, and will deploy armed force only as a last resort<sup>66</sup>. However, the need to find an accommodation between sovereign national governments and EU institutions has meant that the EU-level response to 9/11 sovereignty has been more cautious than that seen in the US and has evolved at a less intense pace.

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<sup>61</sup> *Conclusions and Plan of Action of the Extraordinary European Council Meeting on 21 September 2001*, p.1.

<sup>62</sup> *The EU Security Strategy: A Secure Europe in a Better World*, 2003, p.1.

<sup>63</sup> *The EU Counterterrorism Strategy*, 2005, p.6.

<sup>64</sup> Cited in Cole, J., ‘Terrorism trends in the European Union’, *RUSI and Jane’s Homeland Security and Resilience Monitor* 6, September 2007, p.15.

<sup>65</sup> *The EU Security Strategy, A Secure Europe in a Better World*, 2003, op. cit., p.9.

<sup>66</sup> Quille, G., ‘The European Security Strategy: A Framework for EU Security Interests?’, *International Peacekeeping*, No. 11, Autumn 2004, p.422.

The multilateral approach was made explicit in the EU Counter-Terrorism Action Plan, published in late September 2001. This called for ‘co-operation with the US’ and referred to the EU’s ‘involvement in the world’<sup>67</sup>. In many respects, the Action Plan was a necessary response to the crisis of 9/11, and was shaped by the immediacy of the moment. Nevertheless, it proved to be the foundation upon which a more mature EU counter-terrorism strategy was based. From its earliest moments, EU counter-terrorism policy emphasised the merits of co-operation between the institutions and EU Member States.

Key to the EU’s rapidly evolving counter-terrorism policy was the Counter-Terrorism Strategy of November 2005. Central to this strategy are the concepts of co-ordination and co-operation between EU Member States and the need to be both reactive and proactive in responding to the threat of terrorism in the EU. The EU Counter-Terrorism Strategy also set out a framework for action which was very similar in design and language to that produced by some national governments, such as the UK and the US:

- **Protect** - To protect citizens and infrastructure and reduce our vulnerability to attack, including through improved security of borders, transport and critical infrastructure.
- **Prevent** - To prevent people turning to terrorism by tackling the factors or root causes which can lead to radicalisation and recruitment, in Europe and internationally.
- **Pursue** - To pursue and investigate terrorists across our borders and globally; to impede planning, travel, and communications; to disrupt support networks; to cut off funding and access to attack materials, and bring terrorists to justice.
- **Respond** -To prepare ourselves, in the spirit of solidarity, to manage and minimise the consequences of a terrorist attack, by improving capabilities to deal with: the aftermath; the co-ordination of the response; and the needs of victims<sup>68</sup>.

Analysis of EU internal security and counter-terrorism strategies must acknowledge three main determinants of policy. The first is the uniqueness and the complexity of the relationship between the institutions of the EU and the governments of its member states. Nowhere is the uniqueness of this relationship more vivid than in matters of security, defence and internal affairs, where the sovereignty of member states is most keenly protected. As a framework for policy and decision-making the EU is, indeed, so unusual that a straightforward comparison between the EU and the US in matters of counter-terrorism would yield little benefit.

The second determinant is the level of experience of domestic terrorism within Europe. Whether in the UK with both Republican and Loyalist terrorism, Spain with ETA, Germany with Baader-Meinhof, or Italy with the Red Brigades, Europe has had a long and bloody experience of organised domestic terrorism. Yet since this experience resides at the level of the member states concerned, and since there has been a widespread and structural reluctance to allow EU institutions to develop a role in security, defence and internal affairs, Europe’s deep experience of terrorism has so far largely failed to manifest itself at the supranational level in the EU.

In this context, it becomes all the more noteworthy that the EU has begun to see itself and its institutions as a likely target of terrorism.

The EU TESAT document of 2007 specifically identifies the EU itself, and its institutions, as a terrorist target: ‘A total 498 terrorist attacks were carried out within EU borders in 2006, targeting

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<sup>67</sup> *Conclusions and Plan of Action of the Extraordinary European Council Meeting on 21 September 2001*, pp.1-5.

<sup>68</sup> *The European Union Counterterrorism Strategy, 2005*, op. cit., p.3.

11 member states'<sup>69</sup>. This change of language, and with it the adoption by the EU of a far less hesitant approach to matters which were previously the exclusive preserve of member states, suggests that the EU has moved far closer than before to developing its own internal security and counter-terrorism culture. If so, this could be a very significant shift in thinking and practice, one which provides the basis for more productive co-operation between the EU and member states on something closer to equal terms where vulnerability to terrorism is concerned.

The third determinant is the pace of change, which in the EU is likely to be slow and incremental: 'deep-seated problems persist regarding the coherence, implementation and legality of many measures'<sup>70</sup>. These 'deep-seated problems' refer to the characteristics of the relationship between the EU institutions and the governments of member states (mentioned above), and are widely expected to impede progress. As Brady and Keohane have noted:

*"Progress has been slow in most areas covered by the EU's action plan. The rules for taking the necessary decisions are complex and cumbersome. But more importantly, EU governments often lack the political will to align laws or make their police forces work together. It sometimes takes a calamitous event to dislodge the political blockage."*<sup>71</sup>

Szyszkowitz makes a related point, to the effect that even in counter-terrorism the EU has a certain style of working: 'bureaucratic measures can be agreed upon, when there is political will in the capitals... But the big political decisions on Foreign and Defence policy will be taken in the capitals'<sup>72</sup>. For these reasons, and in spite of any tentative progress being made towards an EU counter-terrorism strategy, it is essential to understand that the character of the EU means that it cannot deliberate, decide and enact in ways similar to the US government:

*"The EU is not a US of Europe, and simply lacks the supranational power to effect and harmonise simultaneous changes in the policies of its constituent national governments... For example, it would be politically difficult for the EU to enact comprehensive regulations on port security, terrorism insurance or first-response capabilities, as the US is doing."*<sup>73</sup>

With the capacity of the EU to deliver security constrained in this way, some analysts argue that, at least in the interim, the EU should concentrate on information sharing<sup>74</sup>, on complementing national activity by raising awareness of weaknesses and low standards, and by facilitating the transfer of best practice between governments and national agencies, even in controversial and difficult areas such as alienation and radicalisation<sup>75</sup>.

## 2.4 Case Study: Counter-Terrorism in Germany

Germany's counter-terrorism policy is characterised by a high degree of decentralisation. Legislative and administrative competences are undertaken by several ministries at the federal level and are devolved to various agencies at the *Länder* and the local level. Germany has developed no centralised authority responsible for counter-terrorism; a preference which has not

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<sup>69</sup> Cited in Cole, 'Terrorism trends in the European Union', op. cit., p.15.

<sup>70</sup> Oxford Analytica, *European Union: Anti-terrorism policy lacks coherence*, 18 April 2007, p.1.

<sup>71</sup> Brady H. and D. Keohane, *Fighting Terrorism: The EU needs a Strategy not a Shopping List*, Centre for European Reform, Briefing Note, October 2005, pp.1-2.

<sup>72</sup> Szyszkowitz, T., 'The European Union' in K. von Hippel (ed.), *Europe Confronts Terrorism*, (Basingstoke: Palgrave Macmillan, 2005), p.189.

<sup>73</sup> Stevenson, 'Transatlantic Counter-Terrorism', op. cit., p.211.

<sup>74</sup> Cited in Cole, 'Terrorism trends in the European Union', op. cit., p.15.

<sup>75</sup> Oxford Analytica, *EU: Anti-terrorism policy lacks coherence*, 18 April 2007, p.2.



changed much since 9/11. However, in the aftermath of 9/11, Germany took a number of legislative and administrative steps in order to intensify its domestic counter-terrorism activities. The 2002 Counter-Terrorism Act has at its core the enhancement of the competences of the intelligence services and the law enforcement and judicial prosecution agencies in order to prevent terrorists living in Germany and supporting and preparing terrorist attacks in the country. The Act consists of provisions to limit the rights of religious groups and to facilitate action against extremists, as well as powers to enable the prosecution of foreign terrorist groups and their supporters in Germany. The Act also adjusts Germany's immigration law, by tightening border controls in order to prevent terrorists from entering and residing in Germany. These measures are accompanied by the introduction of biometrical data into German passports.

Additionally, the investigative competences of Germany's law enforcement agencies such as the Federal Office of Criminal Investigation (*BKA*) as well as intelligence services, particularly the Federal Office for the Protection of the Constitution (*BfV*), are extended. These agencies are now able to gather information from immigration departments and customer data from banks, air carriers and in the near future communication service providers (which from 2008 will have to store all customer call records for up to six months). The new laws are, however, governed by procedural and oversight measures in order to prevent abuse, especially with regard to intelligence activity and information gathering. Thus, the *BfV* may act only on the basis of suspicion and upon approval from the respective supervisory bodies.

The German government has also introduced a number of mechanisms designed to enhance information sharing and exchange, and to improve co-ordination on the federal, *Länder* and local levels. In 2007 the 'Anti-Terror-File' was launched. The file is located at the *BKA* and aims to provide security agencies with computerised information about suspected terrorists<sup>76</sup>. Here again, oversight measures prevent a close connection being made between federal law enforcement and state police agencies on the one side, and federal and state intelligence authorities on the other. As a lesson from Germany's history and the experience made with the secret state police (*Gestapo*) of the Nazi era, German law prescribes a strict division between federal law enforcement and state police agencies on the one side, and federal and state intelligence authorities on the other. Another cross-agency coordination mechanism is the Counter-Terrorism Centre in Berlin. It consists of representatives from the federal law enforcement agencies and intelligence services, customs criminal offices, the federal immigration department and the federal public attorney-general, as well as agency representatives from the *Länder* and local levels. Among other things, the Centre analyses radical Islamist structures in Germany and provides regular situation reports.

The German government has stressed the need for improved inter-institutional co-ordination and co-operation within the EU, and has pushed for higher standards across the EU. Of particular concern has been the implementation of a European information network, enabling data sharing and automated access for all participating states to national databases, as well as closer co-operation between European police authorities. Both measures are cornerstones of the Prüm Treaty, signed in 2005 by seven EU member-states including Germany. This became a central concern for the German EU Presidency in the first half of 2007<sup>77</sup>, and it was largely as a result of Germany's endeavours that all 27 EU member states have recently agreed upon most provisions of the Prüm Treaty.

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<sup>76</sup> Eberhorn, J., 'Schäuble schaltet Anti-Terror-Datei frei', *Focus Online*, 30 March 2007: [http://www.focus.de/politik/deutschland/sicherheitspolitik\\_aid\\_52168.html](http://www.focus.de/politik/deutschland/sicherheitspolitik_aid_52168.html).

<sup>77</sup> See Germany's agenda for the EU Presidency 1/2007 with regard to counter-terrorism policy: [http://www.eu2007.de/en/Policy\\_Areas/Justice\\_and\\_Home\\_Affairs/Home\\_Affairs.html](http://www.eu2007.de/en/Policy_Areas/Justice_and_Home_Affairs/Home_Affairs.html).

Together with EU Commissioner Franco Frattini, Germany has also led in the introduction of a regulation enabling the storage of air passenger data<sup>78</sup>, and has called for the prompt entry into force of EU counter-terrorism legislation in general<sup>79</sup>. The German government has, however, on occasion failed to enact and implement EU counter-terrorism legislation, particularly when it has encountered opposition from the Federal Constitutional Court of Germany (*Bundesverfassungsgericht*). For example, in 2005 the domestic implementation of the European Arrest Warrant was delayed by an intervention by the Court in Karlsruhe.

The failed attempts to bomb two regional trains in Germany in 2006 and the arrests in 2007 of two German Muslim converts and a Turkish citizen living in Germany have re-energised the counter-terrorism debate in Germany. Currently, the administration is arguing for recognition of a range of new offences including the justification of terrorism, visits to terrorist training camps and the distribution of manuals for planning and carrying out terrorist attacks. Another proposed measure, strongly supported by Germany's Minister of the Interior, Wolfgang Schäuble (CDU), would allow remote searching of computers. This proposal is, however, highly controversial even within the Grand Coalition and is being examined by the Constitutional Court.

Another heated debate was triggered in September 2007 when, despite legal reservations, Germany's Minister of Defence Franz Josef Jung (CDU), together with the Minister of the Interior proposed the shooting down of hijacked aircraft over German territory. On this matter, a draft law had been introduced under the Red-Green coalition; although it was rejected by the Constitutional Court in 2006. Besides ethical reservations, the Court argued that the federal government lacks the legal competences to rule over the domestic deployment of Germany's armed forces.<sup>80</sup>

Conservative politicians in the Grand Coalition have long campaigned for an amendment to the constitution to allow for the German *Bundeswehr* to be used to protect vulnerable infrastructure such as airports, in the fight against domestic terrorism. With regard to external action, German armed forces take part in Operation Enduring Freedom on the east coast of Africa and in the Gulf of Oman, and contribute to NATO operations in Afghanistan. The German government values these engagements as a means to confront terrorism at source and as an effort to address the causes of terrorism.<sup>81</sup>

## 2.5 Case Study: Counter-Terrorism in the UK

The UK response to 9/11 was closely informed by recent experience with terrorism, largely related to Northern Ireland. This experience has proved to be advantageous in some respects, but a handicap in others. 'Traditional' terrorism of the sort experienced in Northern Ireland, was a form of violent bargaining in which negotiation with the terrorists was, nevertheless, possible. 9/11, on the other hand, introduced a form of terrorism in which negotiation and bargaining were not apparently the goal of the terrorists; the West is, arguably, now confronted by an adversary with

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<sup>78</sup> 'EU will Fluggastdaten im Anti-Terror-Kampf nutzen', *Spiegel Online*, 3 July 2007: <http://www.spiegel.de/politik/ausland/0,1518,492136,00.html>.

<sup>79</sup> Congressional Research Service Report for Congress, *European Approaches to Homeland Security and Counterterrorism*, Washington, 24 July 2006, p. 22

<sup>80</sup> 'Abschlußerlaubnis nichtig. Karlsruhe kippt Luftsicherheitsgesetz', FAZNET, 15 February 2006: <http://www.faz.net/s/Rub28FC768942F34C5B8297CC6E16FFC8B4/Doc~E6453664812CE41BA843CA4847E279C7B~ATpl~Ecommon~Scontent.html>.

<sup>81</sup> Website of Germany's Ministry of the Interior: [http://www.bmi.bund.de/cln\\_012/nn\\_165104/Internet/Content/Themen/Terrorismus/DatenundFakten/Bekae mpfung\\_\\_des\\_\\_Terrorismus\\_\\_Id\\_\\_93040\\_\\_de.html](http://www.bmi.bund.de/cln_012/nn_165104/Internet/Content/Themen/Terrorismus/DatenundFakten/Bekae mpfung__des__Terrorismus__Id__93040__de.html).

which dialogue and compromise are simply not possible<sup>82</sup>. The scope of the terrorist campaign had also shifted; having become familiar with nationalist terrorism, the UK now saw a new, more ambitious international phenomenon. UK experience of terrorism at this level had been limited; as Wilkinson and Gregory have noted, British experience of significant international terrorism was confined to the Lockerbie bombing of 1988<sup>83</sup>.

After 9/11, terrorism became the UK's core strategic concern<sup>84</sup>. As the UK government moved to orchestrate a strategic-level response to the new threat, a fundamental choice was made: the British response was not to place counter-terrorism authority, budget and staff in a central organisation, but in local agencies, with co-ordination at the centre, which would thus provide the greatest likelihood of improving the UK's resilience to terrorism. Terrorism was perceived to be a *strategic* threat, and the work of local agencies was considered to be an indispensable component of a centrally co-ordinated strategic response. This shift in the relative importance of local preparedness was acknowledged by a change in the official language of domestic security policy and planning in the UK; 'civil defence' in the Cold War mould gave way to 'civil contingencies' and 'resilience'<sup>85</sup>.

The basis of the UK's counter-terrorism approach after 9/11 is set out in *Countering International Terrorism: the UK's Strategy*, published in July 2006. Otherwise known as CONTEST, the UK strategy document is centred around the so-called '4 Ps' – Prevent, Pursue, Protect and Prepare. CONTEST provides a cross-governmental framework for the overall counter-terrorist effort in the UK, and sets out the principal features of that effort. In contrast to the US approach, the UK has not, as yet, moved to create a central organising government department similar to the DHS. On 29 March 2007 Prime Minister Tony Blair announced major changes in the UK 'machinery of government' which would affect the central government organisation for national security and counter-terrorism. Under the new arrangements, in place from 9 May 2007, the responsibility for criminal justice and sentencing policy moved from the Home Office to the Department for Constitutional Affairs, to be renamed the Ministry of Justice. The Home Office retained its traditional responsibilities for the police service, crime reduction, immigration and asylum, and identity and passports.

From May 2007 the Home Secretary also assumed a far more prominent role in dealing with the threat of terrorism in the UK, and the capabilities of the Home Office are being strengthened to that effect, particularly with the establishment of a new Office for Security and Counter-Terrorism. While critical areas of CONTEST are overseen by other Secretaries of State, notably the Foreign Secretary and the Secretary of State for Communities and Local Government, the Home Secretary has the lead responsibility for the strategy in relation to security threats in the UK, including their overseas dimension. This also means that the Home Secretary is responsible for coordinating the delivery of the strategy across Government, although the Foreign Secretary continues to lead on threats from terrorism to British interests abroad. The changes announced in March are said to be aimed at producing a 'step change' in the UK government's management of the terrorist threat. The changes will not alter the departmental responsibilities of the Foreign and Defence Secretaries, or other ministers. Nor, equally, will the strategic and operational reporting lines of any of the security and intelligence agencies be altered. The Cabinet Office will retain its role of supporting the Prime Minister on national security and counter-terrorism.

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<sup>82</sup> This point is developed in P. Cornish, 'The UK' in Karin Von Hippel (ed.), *Europe Confronts Terrorism*, (Basingstoke: Palgrave Macmillan, 2005), p.149.

<sup>83</sup> Wilkinson, P. and F. Gregory, 'Riding Pillion for Tackling Terrorism a High-risk Policy' in *Security, Terrorism and the UK* (London: Chatham House, ISP/NSC Briefing Paper 05/01, July 2005), p.2.

<sup>84</sup> Cornish, *Domestic Security*, p.4.

<sup>85</sup> Cornish, *Domestic Security*, p.5.

As far as the immediate response to terrorism is concerned, the UK has developed a 'Lead Government Department' system, by which the responsibility to respond will be assumed by the most appropriate government agency<sup>86</sup>. There remains a strong emphasis on civil over military authority; as in the US, British military forces play a subordinate role to civil authorities during crises, with any scope for a military contribution to domestic security in the UK being 'doctrinally abroad'<sup>87</sup>.

The UK approach may, however, have some disadvantages. According to Pantucci, the first three of the '4 Ps' of CONTEST are basically reactive, and particularly when attempting to 'prevent' terrorist attacks the government and security agencies hit a 'brick wall'<sup>88</sup>. Others make a broader criticism, arguing that too close a focus on terrorism crowds out the need for a co-ordinated, cross-governmental approach to other security challenges in areas such as energy, the environment and public health<sup>89</sup>. For these and other critics, it is precisely the *absence* of a central authority, budget, and staff (possibly on the US model) which weakens the UK response.

These criticisms deserve a serious response, but it is equally necessary to understand that the chosen UK approach has in many ways been a rather nuanced attempt to ensure that the most appropriate skills and competences can be orchestrated in the face of a security challenge, and at the right moment. It is also essential to understand that the UK has opted for a single system of co-ordination – via the Cabinet Office and through the relevant government departments – with which to meet both natural hazards (such as flooding) and threats (such as terrorism). The UK approach of identifying best practice and deploying capabilities as and when needed, under the umbrella of a centrally co-ordinated and clearly communicated strategy, is one that could offer valuable lessons for the EU as it develops its role in internal security.

## 2.6 Comparative Analysis: the US and EU

There have been important areas of convergence in US and EU approaches to counter-terrorism since 9/11 (possibly more than some analysts are willing to acknowledge), not least in agreement on the nature of the terrorist threat after 9/11 and in regard to initial co-operation to identify and catch suspected terrorists. Since the Madrid and London bombings there has been closer convergence on the seriousness of the terrorist threat, even though important differences remain in approach; neither the EU, nor any EU member state, for example, seems close to establishing a European equivalent of the US Department of Homeland Security. It might be said, therefore, that while there is agreement on the substance and seriousness of the terrorist threat, as far as responses are concerned the US and the EU have adopted approaches which are theoretically, institutionally and rhetorically distinctive and in some respects even divergent. However, it is not necessarily the case that these approaches are contradictory or incompatible. And it is, furthermore, conceivable that best practice could be transferred from one to the other.

Certainly, the EU's response was of a different character and tempo to that displayed by both NATO and, most importantly, the US<sup>90</sup>. This difference was largely, and obviously, a

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<sup>86</sup> Cornish, *Domestic Security*, p.14.

<sup>87</sup> Stevenson, J., 'The Role of the Armed Forces in the UK in Securing the State against Terrorism' in John L. Clarke (ed.), *Armies in Homeland Security: American and European Perspectives* (Washington D.C.: National Defence University Press, 2006), p.31.

<sup>88</sup> Pantucci, R., 'Homeland Security in the UK' in *Safety and Security International* 5 (2007): pp.3-5, p.4.

<sup>89</sup> Hall, R., 'Security strategy in the UK' in *RUSI and Jane's Homeland Security and Resilience Monitor* 6 (July 2007): pp.10-11, p.11.

<sup>90</sup> Cornish, P., *EU and NATO: Co-operation or Competition?* (European Parliament: Directorate General for External Policies of the Union: Briefing Paper, October 2006), p.19.

consequence of the fact that 9/11 took place in the US rather than the EU. While citizens of many European countries were killed or injured on 9/11, it was clear that the target was the US. The experience of 9/11 has by some accounts left a deep and unique impression on the US:

*“In part because of the scars September 11 left on the national psyche, Americans find the world a much more threatening place than do most Europeans, and, consequently, believe immediate action is necessary to make it safer.”*<sup>91</sup>

For many in the US, and particularly in the Bush Administration, 9/11 was nothing less than an existential attack on the US; a perception which shaped the nature of the US response. Self-evidently, the US approach to counter-terrorism and homeland security has been largely unilateral; it will be remembered that NATO’s invocation of its Article 5 collective defence commitment in September 2001 was met with courtesy in the US, but not much else. The US approach has also seen a centralised, ‘top-down’ reorganisation of government, and a tendency to be ‘active’ and to make direct use of US armed forces. With its vast military capability and global reach, the US has been in a position to react immediately and decisively. And as discussed above, the US response has been able to bridge the internal/external, domestic/foreign policy divide, with Homeland Security complemented by Homeland Defence.

Just as self-evident, as a grouping of 27 states the EU’s approach has been multilateral. The relationship between EU institutions and the government of member states has also been such that the EU’s response has been largely decentralised and ‘bottom up’. As far as the use of military force is concerned, the EU has been much more hesitant. In Solana’s words, ‘In contrast to the massive visible threat in the Cold War, none of the new threats is purely military; nor can any be tackled by purely military means’<sup>92</sup>. With its relative lack of military capacity (at least at the EU level), the EU has not been able to adopt a strategy similar to that of the US, whereby military force is projected abroad in pursuit of security domestically. The EU has, therefore, developed a different style of response to emergent terrorist threats, one which draws upon other areas of policy and which is often described as a ‘soft power’ approach.

The EU’s response to the threat of terrorism has been shaped particularly by the Madrid and London bombings. The Madrid attacks sparked closer interest and action by the EU *vis-à-vis* internal security and counter-terrorism, and were followed within weeks by the appointment of Gijs de Vries as the EU’s Counter-Terrorism Co-ordinator. Similarly, the London bombings were followed by the publication of the EU’s Counter-Terrorism Strategy in November 2005. As the EU’s approach evolved, however, it was plainly not of the same scale, complexity or ambition as that of the US<sup>93</sup>. The EU has also been confronted by particular concerns not felt in the US to the same degree. With large Muslim minorities in some member states (particularly France at eight per cent, and Germany and the UK at three per cent - as against two per cent in the US), the EU and member state governments have faced some difficulties when addressing the problem of Islamist radicalisation and religiously-based terrorism.

Furthermore, there appear to have been major differences in the analysis of the problem and the most suitable response to it. Stevenson has argued that the US concern has been with ‘potential consequences’, whereas European security analysis has focused on ‘probabilities’<sup>94</sup>. This could be a fundamental divergence, with Europeans adopting a ‘threat-based and intelligence-driven’

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<sup>91</sup> LaFleur, ‘A View from America’, p.196.

<sup>92</sup> Solana, Javier, cited in Quille, ‘The European Security Strategy’, op. cit., p.424.

<sup>93</sup> Stevenson, J., ‘How Europe and America Defend Themselves’ in *Foreign Affairs* 82 (2003-2004): pp.75-90, p.78.

<sup>94</sup> Stevenson, ‘How Europe and America Defend Themselves’, p.79.

approach to counter-terrorism, while the US follows a ‘vulnerability-based’ model<sup>95</sup>. In general terms, the US response to 9/11 has been characterised by a focus on the consequences of a *possible* terrorist attack and on the public and political expectation that perceived vulnerabilities to terrorism can and should be closed. In crude terms, the US approach could be described as a preference for risk *elimination*, rather than risk *management*. Interestingly, divergence of this sort had been detected as long ago as 1999, when Hoffman warned that ‘America’s problem with terrorism has historically been international in nature, while the opposite has mostly been the case in Europe’, and that ‘whereas the US tends to regard counter-terrorism as something akin to a moral crusade, Europeans are far more sceptical of blanket approaches and rigid policies and instead adopt what they see as more practical and, in their minds, more productive approaches’<sup>96</sup>. The EU approach, conversely, has been to adopt a more *ad hoc*, threat-based and intelligence-driven approach to counter-terrorism, similar in essence to the policies of some member states, such as the UK. The EU has, in other words, focused on the *probability* of terrorist attack, and on the *management* of risk.

### 2.6.1 Counter-Terrorism and Intelligence: the US-European Relationship

Reliable, well-sourced intelligence must be at the heart of any successful counter-terrorism strategy. Given its preference for an approach based on threat, rather than vulnerability, this observation is particularly pertinent in the case of the EU. Yet there are wide disparities in the style and the quality of intelligence collation and analysis across the EU. Furthermore, the sharing of terrorist-related intelligence has proved to be difficult, both within the EU and between the EU and the US. Where intelligence is concerned, the US response to 9/11 has not been without its critics. For some, the establishment of the DHS was achieved at the expense of the development of a specialised internal US intelligence service (the FBI being a policing, rather than an intelligence-gathering organisation). One proposal was to create an internal intelligence department similar to the UK’s domestic security service (MI5), but placed within the FBI at least in the early stages<sup>97</sup>. Rather than rely on the vast and costly DHS, a more measured approach such as this, which has arguably worked well in the UK and other European countries, would have given the US an effective domestic counterpart to the CIA. The Homeland Security/Homeland Defence partnership would therefore have had an analogue in matters of intelligence.

The EU, on the other hand, does not seem close to possessing an internal intelligence service of the kind employed by some EU member states and, in more rudimentary form, the US. With the notable exception of Europol, what are perceived to be centralist intrusions into the sovereign, security-related affairs of member states are likely to be resisted by governments for the foreseeable future. ‘After the Madrid attacks’, writes Keohane, ‘Austria and Belgium proposed that the EU should set up a European version of the CIA. However, there is no chance of the EU creating an intelligence agency with its own ‘euro-spies’ and satellites. The G5 governments, which are the EU countries with the greatest intelligence resources, strongly oppose such a move, fearing it would result in leaks. Their intelligence agencies would rather share their most sensitive information with just a few countries’<sup>98</sup>. There are, nevertheless grounds for reviewing the EU’s capabilities and potential in intelligence collection, collation and analysis, as we suggest in section 3 below.

Despite these transatlantic differences there has been some intelligence co-operation since 9/11. This has, however, tended to be between the US and individual EU member states rather than

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<sup>95</sup> Stevenson, ‘Transatlantic Counter-Terrorism’, p.218.

<sup>96</sup> Hoffman, B., ‘Is Europe soft on terrorism?’ in *Foreign Policy* 115 (Summer 1999), p.73.

<sup>97</sup> Clarke, R. A., *Against All Enemies: Inside America’s War on Terror*, (London: The Free Press, 2004).

<sup>98</sup> Keohane, D, *The EU and counter-terrorism*, (CER Working Paper, May 2005), p.31.

between the US and the EU as a whole. Gijs de Vries acknowledged this trend in September 2004, in remarks to the US House of Representatives:

*“[T]he commonality of understanding of the threat and potential for joint action between the United States and its European partners is reflected by the fact that intelligence and law enforcement co-operation between the U.S. and European countries is, by general consent and in general, excellent.”*<sup>99</sup>

This assertion suggests that the EU has been bypassed as a conduit for intelligence and information sharing with the US since 9/11. In the view of Yves Boyer, ‘There is a worldwide co-operation in intelligence which is now going on. This type of co-operation is made more and more on an ad hoc basis and is essentially bilateral’<sup>100</sup>. A good example of bilateral intelligence co-operation is that between the US and the UK, where a very close relationship has obtained for decades between the intelligence services of the two countries. The US has also developed bilateral intelligence relationships with other EU member states. For as long as transatlantic intelligence co-operation follows this path, however, it will be difficult to envisage a serious and instrumental intelligence role for the EU.

### **2.6.2 Transferring Best Practice and the Need for Transatlantic Co-operation**

Given mutual vulnerability to the terrorist threat, it would be reasonable to expect some form of two-way traffic across the Atlantic, where best practice could be shared, where both successes and failures could be identified, and where a constructive debate could be held as to the development of effective counter-terrorist strategies. Given the differences in US and EU approaches discussed above, co-operation of this sort would certainly be difficult. But it should not be considered impossible. Transatlantic counter-terrorism co-operation is not only vital in combating the current threat, but it is a necessity for countries on both sides of the Atlantic: ‘International terrorism has presented a very real challenge... The two sides of the Atlantic have been forced to re-orientate their patterns of co-operation in order to confront this menace.’<sup>101</sup> Effective co-operation will doubtless involve the sharing of information and best practice. It will also require a mature and mutual assessment of the merits of both US and EU counter-terrorism approaches. This point has been argued for some time by scholars of terrorism: ‘although it has become fashionable to dismiss Europe’s approach towards terrorism as counterproductive, there is reason to believe that the European way of doing things might yield more effective results in the long run’<sup>102</sup>.

Some encouraging examples of counter-terrorism co-operation have been seen between the EU and the US: the 2004 EU-U.S. Dromoland Castle Declaration on Combating Terrorism; the 2006 US-EU Vienna Summit Joint Declaration; and the visit of US Homeland Security Secretary Michael Chertoff to LIBE in May 2007. Areas in which ‘significant accomplishments’ have been made in US-EU co-operation include investigation and prosecution procedures, exchanging national security information, and sharing data on border security<sup>103</sup>. In February 2005, President Bush offered his thanks to America’s European allies: ‘Together, we have disrupted terrorist

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<sup>99</sup> Vries, Gijs de, Statement to U.S.-European Co-operation on Counterterrorism: Achievements and Challenges, Joint Hearing before the Subcommittee on Europe and the Subcommittee on International Terrorism, Nonproliferation and Human Rights of the Committee on International Relations, House of Representatives, U. S. Congress, 14 September 2004, [http://house.gov/international\\_relations](http://house.gov/international_relations), p.19.

<sup>100</sup> Boyer, Yves, ‘Intelligence Co-operation and Homeland Security’ in Esther Brimmer (ed.) *Transforming Homeland Security: U.S. and European Approaches*, (Washington D.C.: Center for Transatlantic Relations, 2006), p.163.

<sup>101</sup> Rees, Wyn, *Transatlantic- Counter Terrorism Co-operation: The New Imperative*, (Oxon; New York: Routledge, 2006), p.144.

<sup>102</sup> Hoffman, ‘Is Europe soft on terrorism?’, p.63.

<sup>103</sup> Kerber, F., *US-EU Co-operation on Counter Terrorism*, [www.AmericanDiplomacy.org](http://www.AmericanDiplomacy.org), 3.



financing, strengthened intelligence sharing, enhanced our law enforcement co-operation, and improved the security of international commerce and travel...'<sup>104</sup> Yet there has also been disagreement, sometimes fundamental, and sufficient to ensure that transatlantic counter-terrorism co-operation has not developed further during the past six years. As noted earlier, divergent styles of risk perception can have a corrosive effect on the relationship: 'These differing perspectives complicate transatlantic co-operation: American critics charge Europeans with complacency, while European critics accuse Americans of extremism'<sup>105</sup>. Specific areas of disagreement have included the Container Security Initiative (CSI), the Passenger Name Record (PNR), the role of sky marshals, the use of biometric passports and placing Hizbollah on terrorist financing list<sup>106</sup>.

Despite these disagreements, there seems to be a strong enough transatlantic consensus to suggest that further co-operation is possible and would be worthwhile. According to a 2004 report by the Atlantic Council of the US, 'Over the next three years, the growing US-EU co-operation in combating terrorism would come to be widely regarded as once of the true success stories of transatlantic relations'<sup>107</sup>. Others in the US have stressed the merits of the 'growing US-EU co-operation', with the smallest signs of convergence being seen as an improvement on merely *ad hoc* achievements in transatlantic counter-terrorism<sup>108</sup>. In similar terms, in 2005 José Manuel Barroso, President of the European Commission, argued:

*"If you look at the challenges ahead – like terrorism, poverty – one thing is certain: These are not challenges that any nation can tackle alone. The reality is that the world is safer and more prosperous when Europe and America work together as global partners"*<sup>109</sup>.

## 2.7 Linking 'Homeland Security' and the European Security Strategy

Any investigation of the question whether the EU is developing a 'Homeland Security' programme must first of all recognise that there is *no* common vision of 'Homeland Security' within the EU<sup>110</sup>. Even the term itself is controversial. The phrases 'domestic security', 'public security' or 'internal security', are more commonly used. Others speak of 'security for the citizens' or of an 'area of justice, freedom and security'<sup>111</sup>. Most recently, the literature has come up with the term 'protection' as a synonym<sup>112</sup>.

What can be said, though, is that the EU's programme of protecting the EU homeland is in many aspects substantially different from what is being done under the label of 'Homeland Security' in the US. The EU's domestic security is not limited to inward-looking protective activities, but also considers action beyond EU territory. This multi-dimensionality becomes obvious particularly in the field of counter-terrorism, which "unfolds in different spheres" and where "the traditional

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<sup>104</sup> *The EU, the U.S., and the Fight Against Global Terrorism*, EU Focus, European Union, Delegation of the European Commission to the USA, May 2005, 6.

<sup>105</sup> Hamilton, 'Introduction: Transforming Homeland Security', xiii.

<sup>106</sup> Aaron, D. L. et al, *The Post 9/11 Partnership: Transatlantic Co-operation against Terrorism* (Washington D.C.: The Atlantic Council of the United States, 2004), 8-11.

<sup>107</sup> Aaron, *The Post 9/11 Partnership*, 1.

<sup>108</sup> Hamilton, 'Transforming Homeland Security', xix.

<sup>109</sup> *The EU, the U.S., and the Fight Against Global Terrorism*, EU Focus, European Union, Delegation of the European Commission to the USA, May 2005, 1.

<sup>110</sup> Hamilton, *op. cit.*, p. x.

<sup>111</sup> Clarke, John L., 'European Homeland Security: Promises, Progress and Pitfalls', in: Bertelsmann Stiftung (ed.), *Securing the European homeland: The EU, terrorism and homeland security*, Gütersloh, August 2005, p. 27.

<sup>112</sup> Cf. Rhinhard, Mark, Ekengren, Magnus, Boin, Arjen, 'The European Union's Emerging Protection Space: Next Steps for Research and Practice', *European Integration* 28 (5) 2006, 511-527.



division into hard and soft security is diffusing”<sup>113</sup>. The EU’s homeland protection is *more* than US ‘Homeland Security’ and its external ‘arm’, in substance, has little in common with ‘Homeland Defence’.

But what is the nature of the EU’s putative ‘Homeland Security’ programme then? This section will consider the external dimension of EU internal security. It will explore how the EU tries to enhance its capacity to act externally in order to protect its internal security. The way in which these two dimensions “span the internal and external divide in EU policies”<sup>114</sup> seems to be key in understanding the EU’s ‘Homeland Security’ approach. The feasibility of linking the EU’s internal dimension of counter-terrorism policies with the external dimension will be assessed both with regard to the EU’s strategic (conceptual) and operational agenda vis-à-vis counter-terrorism. Taking into account the initial threat assessment, this chapter will try to give an answer to the question whether we are really witnessing the emergence and realisation of a EU ‘Homeland Security’ programme and if so, what it looks like.

### **2.7.1 The internal and external dimensions of the EU’s domestic security objectives**

The EU repeatedly refers to the intrinsic link between the internal and external dimension of domestic security in various strategic documents on how to secure and protect the European territory. On this general conceptual level, two documents form the framework within which the link between domestic security and external action is being constructed: the European Security Strategy (ESS) on the one hand, and the Hague Programme located in the JLS area, on the other.

### **2.7.2 Protecting Europe’s mainland beyond EU borders**

The ESS, adopted by the European Council in December 2003<sup>115</sup>, represents the conceptual framework for the EU’s external action and provides guidelines for the EU’s activities outside its boundaries. The ESS must be considered a “conceptual and procedural turning point in the development of the EU’s Common Foreign and Security Policy”<sup>116</sup>. Along with the proliferation of WMD, regional conflicts, failed states, bad governance and organised crime - terrorism is highlighted in the ESS as one of the ‘key’ threats which the EU currently faces. This distinct definition of the ‘new’ threats shows that “the very theme of (external) security is no longer off-limits to the EU in the way it traditionally used to be”<sup>117</sup>. Instead the EU sees it as its responsibility to ensure freedom, peace and a high level of security for its citizens through the promotion of security and stability beyond the EU’s borders, which means that the “external and internal aspects of security become indissolubly linked”<sup>118</sup>.

This stipulated intrinsic link between external and internal security becomes most evident with regard to terrorism. The ESS defines the ‘new’ terrorist threat as primarily externally driven, with al Qaeda being its motor and Europe a (potential) terrorist target and base. According to the ESS, this kind of externally-driven terrorism has its roots in instability – mainly caused by regional conflicts, state failure, bad governance and organized crime – whereby terrorism itself can, contrawise, contribute to the aggravation of instability. With regard to terrorist’s motivations, the ESS states that it is the “pressure of modernisation, cultural, social and political crisis, and the

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<sup>113</sup> Bendiek, Annegret, ‘Cross-Pillar Security Regime Building in the European Union: Effects of the European Security Strategy of December 2003’, *European Integration online Papers*, 10 (2006), 8 September 2006.

<sup>114</sup> Boin, Arjen, Ekengren, Magnus, Rhinhard, Mark, ‘Protecting the Union: Analysing an Emerging Policy Space’, *European Integration* 28 (5) 2006, p. 406.

<sup>115</sup> ‘A Secure Europe in a Better World. European Security Strategy’, Brussels, 12 December 2003.

<sup>116</sup> Bailes, Alyson J. K., ‘The European Security Strategy. An Evolutionary History’, SIPRI Policy Paper No. 10, Stockholm, February 2005, p. 1.

<sup>117</sup> Joenniemi, Pertti, ‘Towards a European Union of Post-Security?’, *Co-operation & Conflict* 42 (1) 2007, p. 136.

<sup>118</sup> European Security Strategy, *op. cit.*, p. 2.

alienation of young people living in foreign societies”, which account for radicalisation and religious extremism. Although terrorism is largely defined as an “out-of-area threat”<sup>119</sup>, the ESS also acknowledges that the phenomenon is also “part of our own society”<sup>120</sup>.

The specific threat perception outlined in the ESS has implications for the EU’s external security approach. Principally, the approach is not (primarily) military and confrontational, but co-operative in nature and based on preventive engagement. According to the ESS, tackling terrorism means first of all addressing prevailing conflicts and the sources of instability in the world. Dealing with terrorism requires a comprehensive (holistic) approach, including political and diplomatic means as well as trade and development activities. Additionally, JLS capabilities such as intelligence, police, judiciary, and other civil instruments (occasionally including military components) are regarded as necessary to respond to threats and crises, to restore order after crises and to promote longer-term reform.

The ESS defines three strategic objectives: First, the EU needs to develop a more active foreign and security policy and increase its capabilities in order to combat the ‘new’ threats (such as terrorism) by applying the full spectrum of instruments for crisis management and conflict prevention. With regard to counter-terrorism, the ESS emphasises the need to strengthen the EU’s diplomatic tools and particularly to refine its ESDP capabilities. While the former underpins the EU’s traditional ‘soft’ power, the latter clearly hints to a trend to equip the EU also with means for ‘robust’ interventions, both civilian and military. In the fight against counter-terrorism, the ESS makes only a rather general statement: ESDP military missions may in the future include, *inter alia*, support for third countries in combating terrorism.

Second, the EU must extend its ‘security zone’ on Europe’s periphery. This implies a deepening of relations with priority third countries in order to enhance their performance of tasks relevant for maintaining global security. Measures taken by the EU may consist of assistance to improve the operational (short-term) capabilities of these states to tackle threats instantly, but may also comprise more longer-term structural reforms in these countries as a precondition for sustainable security. Among the latter, the ESS lists the strengthening of institutions, the restoration of good governance as well as the fostering of democracy and sustainable development. A third objective focuses on the establishment of a stable and equitable international, rule-based order and an effective multilateral system.

Finally, the ESS calls for better coordination between external action and JLS policies, thereby demanding more coherence across all three Pillars.

### **2.7.3 External aspects of domestic security in the EU’s Hague Programme**

The Hague Programme<sup>121</sup> is the EU’s main conceptual framework for implementing and securing the ‘Area of Freedom, Security and Justice’, which was created by the Amsterdam Treaty (1997). The field of JLS is now one of the most dynamically growing areas of the EU *acquis*<sup>122</sup>. The objectives set out in the Hague Programme encompass mainly protective EU activities under the First (Community) and the Third (JLS) Pillar. The majority of measures envisaged are clearly directed at the enhancement of protective structures *inside* the EU, mainly through the improvement of inter-state co-operation, the setting up of supranational arrangements and legal approximation amongst Member States. However, the Hague Programme also refers to the need

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<sup>119</sup> Bailes, *op. cit.*, p. 3.

<sup>120</sup> European Security Strategy, *op. cit.*, p. 3.

<sup>121</sup> Council of the European Union, ‘The Hague Programme: strengthening freedom, security and justice in the European Union’ (2005/C 53/01), *Official Journal of the European Union* C53, 3 March 2005, p. 1-14.

<sup>122</sup> Monar, *op. cit.*, p. 413.

for protective *external* action. This would draw especially the Third Pillar closer to the Second Pillar. As such, the Hague Programme reflects the reverse perspective of the intrinsic internal-external link, constructed in the ESS. This interpretation is backed by the statement made in the document that “all powers available to the Union, including external relations, should be used in an integrated and consistent way to establish the area of freedom, security and justice”.

The Hague Programme, however, gives only scant information about how the Union’s policy on freedom, security and justice should be linked with the EU’s external dimension and what measure should be taken. Generally, outward-looking activities are considered with regard to such cross-border policy issues as border control, migration and asylum policy and to a considerable extent also with regard to counter-terrorism. Moreover, the Hague Programme sets out two strategies on what kind of external action may contribute to the specific domestic security needs of the EU. The first one concentrates on the enhancement of multilateral and bilateral co-operation with third countries on specific cross-boundary issues such as migration and terrorism, and the second foresees more targeted Community assistance to third countries in order to improve their domestic capacities with regard to domestic migration management, refugee protection, border control, and counter-terrorism policies. The latter, thus, encompasses the export of control mechanisms and instruments to such third countries, from where the insecurities are conceived to emerge<sup>123</sup>.

The Hague Programme makes a number of propositions on how to act externally in order to protect the JLS area: including, a significant increase in EU assistance for counter-terrorism-related capacity-building projects in third countries; the establishment (in co-operation with the EU agencies Europol and Eurojust) of a network of experts, which can be activated when third countries request technical assistance in training; and combating terrorist financing.

The Hague Programme also calls the Commission and the Secretary-General of the Council to develop a strategy covering all external aspects of the Union policy on freedom, security and justice, and addressing the specific needs for co-operation in the field of JLS with third countries.

#### **2.7.4 Making JLS a Priority in the EU’s External Relations**

In reaction to this call, the EU adopted the ‘Strategy on the External Dimension of JHA’ on 30 November 2005<sup>124</sup>. The Strategy reflects the EU’s further efforts to incorporate domestic security requirements into its foreign policy and external relations and to strengthen the EU as an international actor in the area of JLS. It is characterised by the aim to bring the Second and Third Pillars closer together and to make the JLS dimension a “central priority” in the EU’s external relations – particularly through intensified co-operation between the Directorates General for External Relations and Neighbourhood Policy, Development and Humanitarian Aid, and Enlargement on the one hand and the DG for JLS on the other. In its threat perception, the Strategy on the External Dimension of JLS closely follows the tenor of the ESS, underlining the transnational and transcending nature of the current threats challenging the internal security of the EU. Organised crime, illegal immigration, the failure of institutions, judiciary and law enforcement agencies and not least terrorism are “increasingly international in nature”<sup>125</sup>. Therefore, they cannot be solved in isolation, but require a concerted effort and must be addressed in co-operation and coordination with the international environment.

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<sup>123</sup> These two strategies have also been applied within the area of immigration and asylum policy, cf. Boswell, Christina, ‘The ‘external dimension’ of EU immigration and asylum policy’, *International Affairs* 79 (3) 2003, p. 619-638.

<sup>124</sup> Council of the European Union, ‘A Strategy on the External Dimension of JHA: Global Freedom, Security and Justice’, 14366/3/05 REV 3, Brussels, 30 November 2005.

<sup>125</sup> Strategy on the External Dimension of JHA, *op. cit.*, p. 2.

With regard to more concrete policy responses, the strategy makes suggestions on how to improve the EU's ability to act internationally in the JLS area. In general terms, the policy response should be differentiated and flexible. The document lists a number of tools that should be activated for targeting domestic security concerns in the EU's external relations. To secure the area of freedom, security and justice internationally, the strategy suggests to:

- integrate JLS issues in relations with third countries, and to establish regional groupings, respectively engage in international organisations
- develop the EU's technical capacity to engage effectively with third countries to conclude and implement practical agreements (through partnership and/or incentive-based approaches in order to adopt international standards on JLS and affect the level of co-operation),
- provide for adequate and specific funding for JLS priorities (support for institutional and capacity-building in third countries, from law enforcement to border control),
- strengthen the role of EU agencies (EUROPOL, EUROJUST).

Delivery mechanisms and tools are enlargement, ENP, other special partnerships, co-operation with Russia and a more close regional engagement, particularly in counter-terrorism co-operation, in North Africa, the Western Balkans and relevant ENP countries.

#### **2.7.5 Linking internal and external security objectives in the fight against terrorism**

Within this general framework related to the external dimension of JLS, the EU has come up with a more detailed strategic and operational programme on how to combat terrorism. The need to fully integrate the fight against terrorism into the EU external relations policy was most prominently highlighted in a working paper on the integration of the fight against terrorism into EU external relations policy and the considerations made by the European Council on 16 and 17 June 2005<sup>126</sup>.

The Council considerations requested that concrete proposals be submitted on how to best link internal security requirements and external action. The EU Secretary General in association with the Presidency had in May 2005 already prepared and submitted a working paper entitled 'Integrating the fight against terrorism into EU external relations policy'<sup>127</sup>. This paper, which is partly classified<sup>128</sup>, reiterates that "it is important to establish a close link between internal activities and the use of external instruments". However, the document does not claim to review all aspects of counter-terrorism policy in EU external relations, but points to some crucial areas, where action is deemed to be necessary.

Two objectives directly reflect external aspects in the fight against terrorism: the objective to deepen the international consensus and to enhance international efforts to combat terrorism, and the objective to target actions under EU external relations towards priority third countries, i.e. towards states in which counter-terrorist capacities or commitments to combating terrorism need to be enhanced. In addition to that, four other objectives are conceived to have an external angle: reduce assets to terrorist financing; address the factors which contribute to support for and recruitment into terrorism; enhance the capability of the EU and the Member States to deal with the consequences of a terrorist attack (this touches also on the subject of an ESDP contribution to

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<sup>126</sup> European Council Presidency Conclusions, *op. cit.*, p. 6.

<sup>127</sup> Council of the European Union, 'Integrating the fight against terrorism into EU external relations policy', 14456/2/04 REV 2 EXT 1, Brussels, 11 May 2005, Partial Declassified.

<sup>128</sup> No declassified version has been published to date.

the fight against terrorism); and protect the security of international transport and to ensure effective systems of border control.

The document also alludes to the need to implement the European Strategy on Weapons of Mass Destruction and lists the existing foreign policy means at the EU's disposal, which could be used in its external action against terrorism: such as, engaging in political dialogue, providing technical assistance, and addressing the root causes of terrorism.

The 'Conceptual Framework on the ESDP dimension of the fight against terrorism'<sup>129</sup> is also fully in line with the Report to the June 2004 European Council on the implementation of the Declaration on combating terrorism<sup>130</sup>. It defines some basic principles with regard to the role of ESDP in the EU's fight against terrorism and identifies a set of concrete action points in accordance with Article 17.2 of the Treaty of the European Union (TEU)<sup>131</sup>. ESDP encompasses civilian and military crisis management operations under Title V TEU and can further contribute to the fight against terrorism, either directly (including support to third countries in combating terrorism) or in support of other instruments aiming at the improvement of the security environment in specific states or regions. The Conceptual Framework highlights four main areas antedating in part the categories of the 2005 Counter-terrorism Strategy where the ESDP can contribute to fighting terrorism: prevention; protection, response/consequence management; and support to third countries.

#### **2.7.6 The external dimension of domestic security in the EU Counter-Terrorism Strategy**

Consonant with the Hague Programme and the ESS the external dimension represents an integral part of the EU's Counter-Terrorism Strategy, the EU's current strategic programme for the fight against terrorism<sup>132</sup>. In the Strategy, the external dimension is conceptualised as a 'horizontal feature' to the tasks identified within the four strategic counter-terrorism objectives ('pillars'):

- Prevent: The overall objective under the first pillar is to 'eliminate the conditions and factors leading to radicalisation'.
- Protect: Under the second pillar the EU aims to 'strengthen the defence of key targets by reducing vulnerability to attack', and also 'by reducing the resulting impact of an attack'.
- Pursue: The general objective under the third pillar is to 'introduce effective mechanisms to disrupt terrorist activity'.
- Respond: Under the fourth pillar the general objective of the EU is to 'be able to deal with attacks when they occur'.

The Counter-Terrorism Strategy reflects a more mature policy response as it tries to better systematise the areas of action and to more precisely describe the requirements in the four single areas of action. In comparison to former documents, particularly the areas 'Prevent' and 'Respond' have been significantly substantiated.

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<sup>129</sup> Council of the European Union, 'Conceptual Framework on the ESDP dimension of the fight against terrorism', Brussels, 18 November 2004.

<sup>130</sup> 'Declaration on Combating Terrorism', op. cit.

<sup>131</sup> The Constitutional Treaty and the Draft Treaty (CIG 1/1/07 REV 1) add several missions to the Petersberg tasks, such as joint disarmament operations, military advice and assistance tasks, conflict prevention and post-conflict stabilisation. The Constitution and the Draft Treaty also state that all these tasks may contribute to the fight against terrorism (Article III-210/Article 28).

<sup>132</sup> Council of the European Union, 'The European Union Counter-Terrorism Strategy', 14469/4/05 REV 4, Brussels, 30 November 2005.

### **2.7.7 Implementing the external dimension of the EU's counter-terrorism objectives**

The EU Counter-Terrorism Strategy is complemented by the 'EU Action Plan on combating Terrorism', listing those measures being taken or to be taken in pursuit of the Strategy's objectives. The Action Plan is updated half-yearly and monitors the progress of the EU's counter-terrorism objectives. The iteration published in March 2007<sup>133</sup> listed more than 160 individual measures. It does not always make clear the distinctions between action taken inside the EU and action directed at third states.

### **2.8 Multilateral and Bilateral Co-operation**

The strengthening of multilateral and bilateral co-operation in counter-terrorism matters has been one key feature of the EU's external counter-terrorism activity so far. Immediately after 9/11, most of the EU's activities to combat terrorism focused on strengthening relations with relevant countries and regions e.g. Pakistan, India and the Central Asia. The EU has also engaged international organisations – to promote common standards in specific issues related to the fight against terrorism and to help coordinate counter-terrorism policies between the EU and these organisations, especially the UN.

The EU has also sought to agree on common counter-terrorism standards with third countries and has advocated for the introduction of global standards and international legal instruments in its bilateral relations. Soon after 9/11, the EU made strong efforts to spur international co-operation on issues related to the implementation of the UN Security Council Resolution 1373. Moreover, the Council of the EU adopted a number of Common Positions in the CFSP domain deciding on the inclusion of restrictive measures in the EU's relations with third countries directed at terrorist groups and terrorist activities in these countries. Eventually, the EU was able to reach a common understanding with different states/regions, e.g. in the 2005 Revised Cotonou Agreement, the 2005 Euro-Mediterranean Code of Conduct against Terrorism, as well as in the draft Agreement on Counter-terrorism and Non-proliferation with Pakistan.

Particularly in the European Neighbourhood Policy (ENP) context, the EU has tried to "mainstream"<sup>134</sup> counter-terrorism co-operation into its external relations e.g. 11 ENP Action Plans agreed upon with Neighbourhood countries, where counter-terrorism clauses or practical measures against terrorism were integrated. Of specific importance for the EU is, moreover, the counter-terrorism co-operation with the US.

Under the 'Protect' pillar, the EU has tried to promote international transport security standards, particularly in the area of aviation, trade and travel. It has, for example, been advocating for global standards on Passenger Name Records (PNR) – also an important law enforcement tool at EU level – at the International Civil Aviation Organisation (ICAO) and for standards on increasing supply chain security at the World Customs Organisation (WCO). It has, furthermore tried to enhance transport security standards in coordination with several third countries. The EU has recently increased its co-operation with the US in this area, particularly on the exchange of cargo information and PNR as well as the dialogue on Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) issues.

The EU and a number of Member States have also supported international efforts to reduce the risk of terrorists getting access to WMD. This issue has been advocated, *inter alia*, through the G8

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<sup>133</sup> Council of the European Union, 'EU Action Plan on combating Terrorism', 7233/1/07 REV 1, Brussels, 29 March 2007.

<sup>134</sup> Monar, *op. cit.*, p. 413.

framework. Practical co-operation is already in place e.g. with Russia, which is being supported in efforts to eliminate its surplus stocks of nuclear and chemical weapons. Since 2004, the EU has set up several Joint Actions to support the non-proliferation activities of the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW). In 2006, the EU has adopted a Joint Action in support of the Biological Weapons Convention (BWC) in order to prevent the spread of biological weapons.

Under the 'Pursue' pillar, the EU has taken several measures to enhance international police and judicial co-operation. Limiting terrorist access to weapons and explosives is also an important issue for international law enforcement activity. On a multilateral level the EU has supported the ratification of all 16 UN legal instruments against terrorism, including the Convention on Suppression of Acts of Nuclear Terrorism, and has advocated (also in dialogues with several third states) the adoption of a Comprehensive Convention on Terrorism. On the issue of terrorist financing, the EU closely cooperates with the respective UN bodies and the Financial Action Task Force (FATF) and has held dialogues with regional organisations, such as the Jakarta Organisation and the African Union (AU) in recent years. On a bilateral basis, it has reached agreements on counter-terrorism co-operation with Russia (particularly on the set-up of a network of counter-terrorism contact points).

According to Article 42(2) of the Europol Convention, Europol - the EU's crime fighting agency - has the right to negotiate and sign so-called 'agency agreements' with third countries<sup>135</sup>. So far, Europol has concluded no specific agreements on counter-terrorism co-operation. It has, however, negotiated two general Co-operation Agreements with the US law enforcement authorities, where a direct reference to counter-terrorism is made, and a number of issue-specific co-operation agreements with third states, e.g. Russia, Albania, Australia, on the fight against organised crime. Since the sectors of money laundering and trafficking included in these agreements are closely related to terrorism, these agreements also reach into the EU's external counter-terrorism agenda<sup>136</sup>. However, the EU's practice to conclude such 'agency agreements' "with potentially major implications for citizens' rights and freedoms" without prior consultation of the European Parliament (EP) has been sharply criticised<sup>137</sup>.

The EU has also taken Common Action against terrorism in the context of its Political Dialogues with priority countries, *inter alia*, on topics such as border monitoring and information exchange. With regard to the transfer of know-how and experts to third countries (police and judicial co-operation), EU Member States are called to supply expertise to partner countries. In addition, the EU has organised a multitude of seminars with third states and organisations, e.g. in order to reach agreement on the introduction of more rigid measures for combating terrorist financing.

In the framework of co-operation with third states, the EU occasionally and consciously exerts 'soft pressure' in order to make partners meet international counter-terrorism requirements or standards agreed upon in bilateral agreements (e.g. on the basis of a counter-terrorism clause). The EU has for instance used 'soft pressure' in the dialogue or through technical assistance or trade instruments in order to further the adoption of a Comprehensive Convention on Terrorism and has in this context sent demarches to single countries, among them Turkey, Egypt, Jordan, Iran, Syria and Pakistan. The EU has moreover reproved several states for not meeting international requirements.

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<sup>135</sup> Monar, *op. cit.*, p. 409.

<sup>136</sup> Cf. Article 4 of the 'Agreement on Co-operation between the European Police Office and the Russian Federation'.

<sup>137</sup> Monar, *op. cit.*, p. 406.

In the ‘Respond’ pillar, the EU and the UN have agreed upon co-operation in disaster management (including terrorist attacks). The EU also cooperates with NATO in the realm of civil emergency planning in the context of the ‘Trilateral Initiative’ and has taken several initiatives to facilitate consular co-operation with third countries in the event of major emergencies affecting EU citizens in third countries.

## 2.9 Counter-Terrorism Capacity-building in Third States

Activities of the EU in the realm of counter-terrorism capacity-building mainly relate to the question of how to improve the JLS capabilities of third countries – particularly the strengthening of law enforcement authorities (police, customs, judiciary). Community assistance plays an important role, but ESDP contributions are becoming also increasingly relevant here. The improvement of domestic border control systems and defence capabilities against the illegal transport of WMD and nuclear devices are additional aspects of the EU’s capacity-building efforts vis-à-vis third states.

Under the pillar ‘Protect’ the EU has delivered assistance to priority third countries in order to enhance their border, airport, and maritime security capacities. Morocco and Algeria (which can be considered as relatively moderate Islamic countries and are the most reform-oriented states in the Maghreb) in particular have profited from the EU’s broader assistance portfolio. The EU has recently included twinning programmes for the enhancement of transport security standards. The Union also supports several non-EU states beyond the Neighbourhood context with technical and financial aid in order to make them comply with international transport security standards, e.g. those defined by the ICAO or the WCO.

Assistance has also been allocated to regional and sub-regional organisations and third states under the pillar ‘Pursue’. The EU perceives the support of regional groupings and organisations as particularly relevant to stop terrorist movements and cross-border activity. The Jakarta Centre for Law Enforcement Co-operation (JCLEC) and the AU centre in Algiers (in the framework of a CFSP Joint Action on terrorism) *inter alia*, have profited from the EU’s financial and technical support to take action against terrorist financing. Furthermore, the EU has provided assistance (expertise, training seminars and funding) to improve domestic legislation and law enforcement capacities of several third states, with the aim to help these countries to meet their commitments set out by UN Resolutions and Conventions. Again, assistance in this field has been provided primarily to Morocco and Algeria.

The pillar ‘Respond’ comprises the development of an EU civilian and military rapid response capability to deal with the aftermath of terrorist attacks within and *outside* the Union. Although originally, this has been a priority objective under ESDP, the EU established a Civil Protection Mechanism in 2001 – a Community instrument, through which the Commission can coordinate civil protection efforts of Member States including preparedness for, and response to, disasters and major emergencies<sup>138</sup>. It provides for a database of Member State civil protection resources, a 24-hour monitoring and information centre, and a common emergency communication and information system enabling a rapid spread and pooling of calls for and offers of assistance. Technical support (e.g. satellite images), training courses, exercises and the exchanges of experts can be offered through the Mechanism. Nevertheless, Member States can still choose two ways of reacting to emergencies: The Council can either decide to intervene under the Second Pillar

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<sup>138</sup> Council of the European Union, ‘Council Decision of 23 October 2001 establishing a Community mechanism to facilitate reinforced co-operation in civil protection assistance interventions’, 2001/792/EC, *Official Journal of the European Communities*, 15.11.2001, L 297, p. 7-11.



framework “using Member States’ assets indicated to the Council’s Co-ordination Mechanism for Civilian Aspects of Crisis Management”, or it can activate the Community Mechanism “to facilitate the reinforced co-operation in Civil Protection assistance intervention”<sup>139</sup>.

In the ESDP domain, the EU is further developing civilian capabilities for crisis management according to the priority areas defined by the 2000 Feira European Council. The Member States committed themselves to make up to 5,000 police officers available by 2003, and 300 ‘rule of law’ officers (prosecutors, judges, prison officers) for crisis management operations. Furthermore, a pool of experts for civil administration missions in the context of crisis-management operations was created.

In June 2005, the Council outlined the modalities for setting-up and deploying “multifunctional civilian crisis management resources in an integrated format, including rapidly deployable Civilian Response Teams” (CRT)<sup>140</sup>. The CRTs are drawn from a pool of experts and are supposed to be rapidly deployed once an assessment of the situation on the ground is made and the ‘urgent needs’ on the ground have been identified. By the end of 2006, the EU had established a CRT pool of 100 pre-identified and trained experts, deployable within five days<sup>141</sup>.

The EU is currently also examining the potential (modalities, procedures, criteria) of interoperability between civilian and military capabilities in civilian ESDP missions deployed for the protection of civilian populations following a terrorist attack (inside or outside the EU). The identification and coordination of assets and capabilities for military support to EU disaster response has, for instance, been subject to a May 2006 Council document<sup>142</sup>. Such assets shall include strategic transport (air/sea), tactical transport (helicopters), medical units, field hospitals and logistics. In addition, a general framework for the use of the Member States’ military or military chartered transportation assets as well as ESDP coordination tools in support of EU disaster response was noted by the Council in May 2006<sup>143</sup>. The Union also seeks ways to cooperate with NATO in these areas, for instance within the so-called ‘Trilateral Initiative’ at NATO in the framework of civil emergency planning and crisis-management.

With regard to external activity under the Pillar ‘Respond’, consequence management has also been a component of the EU’s technical assistance to third states e.g. Morocco is currently a ‘priority’ target. The EU has offered Morocco training in crisis management response to a terrorist attack as part of its Community assistance to the country, but an agreement has yet to be reached.

## 2.10 Structural Measures vis-à-vis Third States

Structural counter-terrorism measures vis-à-vis third states mainly aim to address the root causes of terrorism on the ground, i.e. in countries from where terrorism is assumed to originate. Unlike international co-operation and JLS capacity-building in third states, structural measures in the fight

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<sup>139</sup> Nowak, Agnieszka, ‘Civilian crisis management within ESDP’, in: Nowak, Agnieszka (ed.), *Civilian Crisis Management: The EU Way*, EU-ISS Chailiot Paper No. 90, June 2006, p. 23.

<sup>140</sup> Council of the European Union, ‘Civilian Headline Goal 2008 – General Secretariat Document: Multifunctional Civilian Crisis Management Resources in an Integrated Format – Civilian Response Teams’, 10462/05, Brussels, 23 June 2005.

<sup>141</sup> Council of the European Union, ‘Civilian Capabilities Improvement Conference 2006’, Ministerial Declaration, Brussels, 13 November 2006, p. 2.

<sup>142</sup> Council of the European Union, ‘Military support to EU disaster response: Identification and coordination of available assets and capabilities’, 9462/06, Brussels, 17 May 2006.

<sup>143</sup> Council of the European Union, ‘General Framework for the use of Member States military or military chartered transportation assets and ESDP coordination tools in support of EU disaster response’, 8976/06, Brussels, 4 May 2006.

against terrorism have a long(er)-term orientation and are designed to produce stronger societies resistant to the local and/or regional sprout of extremism and terrorism. External Community assistance in the area of development and democratisation are the prevalent foreign policy instruments of the EU in this respect. The European Commission spends around €7Bn a year on development assistance through various Community budget lines and assistance programmes. EU assistance goes to more than 160 countries, territories and organisations and focuses on the reduction of poverty, the promotion of democracy, social equity, economic prosperity, and environmental sustainability. The promotion of security is also an explicit objective within Community assistance<sup>144</sup>.

Respective long-term activity listed in the EU's Counter-Terrorism Action Plan can be split into two categories: First, the EU has taken or plans to take specific action against terrorist recruitment and radicalisation in third countries and regions, although "it would be unrealistic to expect immediate results"<sup>145</sup>. Counter-measures under this category include education, intercultural dialogue and "the empowerment of moderate voices by engaging with Muslim organisations", as well as more specified activities to counter radicalisation in key environments such as prisons, universities, places of religious training or worship. The Mediterranean region, which includes both EU countries and Neighbourhood countries from the Maghreb, is currently identified as a "priority" region for EU engagement here, and the EU organised expert meetings with the Euromed countries in 2006 in order to analyse processes of radicalisation in the region.

Second, long-term counter-measures in the fight against terrorism are more indirect in nature and encompass broader activity in the area of development, 'good governance', institution-building, legal assistance and crises prevention in third countries. Instead of listing individual measures planned or under way under this heading, the EU Counter-Terrorism Action Plan makes reference to a number of Community assistance programmes, which are targeted at development, democratisation and stabilisation issues. Such action is deemed to improve the overall domestic conditions – from sustainable economic and social development to the strengthening of the rule of law, democracy and the respect for human rights principles – and to reduce the breeding ground for extremism and terrorism. The Action Plan refers to general development/democratisation assistance in the Euro-Mediterranean Partnership context, and towards the Western Balkans as relevant also for addressing the root causes of terrorism. Morocco and Algeria are again conceived as "priority countries" in this regard.

### **2.10.1 Strengthening the Community's assistance portfolio**

Altogether, the Community is currently providing around €400m of counter-terrorism related external assistance to approximately 80 third countries<sup>146</sup>. These activities are backed by two newly established financial instruments of the Community, which can be conceived as contributions to the specific domestic security requirements of the Union: the Instrument for Stability (IfS), adopted in 2006, and the Civil Protection Financial Instrument. Both instruments reflect the attempt of the Community to enhance its status as an international actor of its own in the area of JLS. They provide for Community assistance to EU activities with a clear security dimension. While the Stability Instrument can mainly be described as a reaction to the more

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<sup>144</sup> 'EU external assistance: record performance in 2005':  
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/118&format=HTML&aged=0&language=EN&guiLanguage=en/rapid/pressReleasesAction.do?reference=IP/06/118&format=HTML&aged=0&language=EN&guiLanguage=en%22>.

<sup>145</sup> Council of the European Union, 'Implementation Report of the Radicalisation and Recruitment Strategy and Action Plan', 15386/06, Brussels, 20 November 2006, p. 2.

<sup>146</sup> Website of the European Commission,  
[http://ec.europa.eu/justice\\_home/fsj/terrorism/international/fsj\\_terrorism\\_international\\_en.htm](http://ec.europa.eu/justice_home/fsj/terrorism/international/fsj_terrorism_international_en.htm).

general foreign and security objectives outlined in the ESS<sup>147</sup>, the Civil Protection Mechanism Instrument reflects the increasing importance the EU attaches to the response to disasters and major emergencies (including acts of terrorism).

The IfS<sup>148</sup> provides financial assistance (during 2007-2013) for EU crisis response and the promotion of stability towards third countries. It aims to “deliver an effective, immediate and integrated response to situations of crisis and instability in third countries, within a single legal instrument, until normal co-operation under one of the general instruments for co-operation and assistance can resume”<sup>149</sup>. It is thus to “improve the link between Community and CFSP operations and streamline short-term crisis response with longer-term EC programmes”<sup>150</sup>. The EU regards the IfS as complementary to the Community’s conventional humanitarian aid as well as its long-term co-operation and external assistance instruments. The introduction of the IfS was part of a wider reorganisation of the Community assistance structure in 2006 with the aim to replace the existing range of financial instruments for the delivery of external assistance with a simpler and more efficient framework<sup>151</sup>.

It is worth €2.06Bn Euro i.e. five per cent of the total external relations budget of the Union<sup>152</sup>. Its distinctive feature is that it allows the conduct of activities containing a security objective within the development policy of the Community. It, thus, aims to “build bridges between Community action, based on development principles and practices, and CFSP operations driven by foreign policy and security considerations”<sup>153</sup>.

Activities supported through the Stability Instrument can include peacekeeping actions, development co-operation measures, financial, economic and technical co-operation measures with regard to the fight against organised crime, terrorism and other transnational threats as well as support for third countries in a nuclear crisis or against the threat of WMD.<sup>154</sup> With regard to the fight against terrorism, a general reference is made to the European Council Declaration on Combating Terrorism (2004), which called for counter-terrorist objectives to be integrated into external assistance programmes.

In March 2007, the Council also established a specific instrument for the financing of Community action in the field of civil protection – the Civil Protection Financial Instrument<sup>155</sup> - with a budget of €189.8m (2007-2013). This forms the financial basis for rapid response and preparedness actions of the Member States to major emergencies and disasters – regardless of their origin –

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<sup>147</sup> Dewaele, Aline and Gourlay, Catriona, ‘The Stability Instrument: defining the Commission’s role in crisis response’, *ISIS-Europe Briefing Paper*, 27 June 2005, p. 7.

<sup>148</sup> ‘Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability’, *Official Journal of the European Union* L 327, 24.11.2006, p. 1-11.

<sup>149</sup> Commission of the European Communities, ‘Communication from the Commission to the Council and the European Parliament on the Instruments for External Assistance under the Future Financial Perspective 2007-2013’, Brussels, 29.9.2004, COM(2004) 626 final, p. 10.

<sup>150</sup> Dewaele and Gourlay, *op. cit.*, p. 1.

<sup>151</sup> Next to the Stability Instrument three new instrument were introduced: the Instrument for Pre-Accession Assistance, the European Neighbourhood and Partnership Instrument and the Development Co-operation and Economic Co-operation Instrument. Two existing instruments, for Humanitarian Aid, and for Macro Financial Assistance, were maintained.

<sup>152</sup> Regulation (EC) No 1717/2006, *op. cit.*, p. 10. See also: Dewaele and Gourlay, *op. cit.*, p. 2.

<sup>153</sup> Dewaele and Gourlay, *op. cit.*, p. 7.

<sup>154</sup> While the initial proposal of the Commission also included nuclear safety, the European Parliament insisted to take out this area and to treat it as a separate component. Otherwise the application of the principle of co-decision would have been undermined.

<sup>155</sup> Council of the European Union, ‘Council Decision of 5 March 2007 establishing a Civil Protection Financial Instrument (Text with EEA relevance)’ (2007/162/EC, Euratom), *Official Journal of the European Union* L 71, 10.3.2007, p. 9-17.

covered by the EU Civil Protection Mechanism established in 2001. The new Financial Instrument aims to support and complement the efforts of Member States for the protection, primarily of people, but also of the environment and property, in the event of natural and man-made disasters, acts of terrorism and technological, radiological or environmental accidents. It also intends to facilitate reinforced co-operation between the Member States in the field of civil protection. However, the instrument can only be activated when all other options are exhausted and when the pooling or sharing of transport resources between participating states have not yielded results.

### **2.11 What kind of ‘Homeland Security’ programme?**

The EU has come up with a comprehensive strategic and operational programme in the area of counter-terrorism through which a specific notion of ‘Homeland Security’ becomes manifest. Activities directed at the external realm play an important role in this programme. The EU has sought to expand its problem-solving capacity in the area of counter-terrorism internally and to a significant extent also to the external realm through the mobilisation of means across all three Pillars. This reorganisation of policies in the field of counter-terrorism, particularly the efforts to integrate JLS objectives into the EU’s external relations agenda, reflects the EU’s attempt to bring more security to its citizens and the EU homeland.

The external approach parallels the development of the EU’s internal counter-terrorism policies in several aspects. However externally, the EU has not always been as ‘reactive’ to Islamist terrorism and attacks perpetrated in Europe as it has been internally. Instead, the EU’s external activities have evolved in a more continuous manner. Immediately following the 9/11 attacks, the EU’s external policies comprised to a large part diplomatic activity to spur international co-operation in counter-terrorism. The EU’s diplomatic activity was soon complemented by the provision of assistance for third states. In its documents, the EU puts increasing emphasis on combating radicalisation and recruitment. Practically, the area ‘Respond’ is currently the one which is developing with the biggest dynamic.

### **2.12 Characteristics of the EU’s external counter-terrorism policy**

The analysis of the external dimension has revealed two distinct characteristics of the EU’s counter-terrorism programme, which clearly distinguishes the EU’s approach from US counter-terrorism activity: First, it is holistic. This means that internal and external security are regarded as two sides of one coin and as inseparable from each other. Accordingly, external action is conceptualised as a ‘horizontal feature’ to all aspects and dimensions of counter-terrorism activity. Second, the EU’s counter-terrorism approach is comprehensive in the sense that on a conceptual level it foresees – consonant with the ESS – proactive and reactive measures in its response to the terrorist threat.

Taking into account the initial threat assessment, this broad approach meets the response requirements identified under chapter 1. It helps to trace terrorists and terrorist activity internationally, provides for infrastructure protection – although this area of action is less relevant than within the EU –, and it integrates measures addressing the root causes of terrorism through specific activity against recruitment and radicalisation as well as broader development, democratisation and stabilisation assistance. Therefore, the question is not whether at all the EU links internal and external security at all, but rather how it tries to realise the link.

## 2.13 Conceptual design and external counter-terrorism practices

The repeated demand, formulated in various strategy papers, to better integrate and activate the various policies relevant for counter-terrorism across the three EU Pillars is an ample proof for the EU's attempt to conceptually link its internal (JLS) security requirements as formulated in the Hague programme with the foreign and security policy objectives laid down in the ESS. With regard to the contents of these counter-terrorism policies, the strategy papers provide for the application of a wide range of foreign policy instruments in order to give the EU more leverage in the area of counter-terrorism beyond its borders.

Mobilising a wide range of means and measures is definitely thoughtful and does make sense, given the multifaceted nature and eclecticism of the contemporary terrorist threat in Europe. However, the EU's activities with regard to counter-terrorism in the external realm of domestic security are somewhat inconsistent and biased. The EU's external counter-terrorism strategy comprises proactive and reactive measures. However, the various practical measures are not well integrated, so that the desired comprehensiveness is not fully realised in practice. Moreover, there is a discernible trend to re-focus measures aimed at broader long-term prevention specifically to 'strategic' groups and issues perceived as relevant for countering terrorism. Such a shift in objectives is for instance visible in the EU's Instrument for Stability. The IfS regulation deals at length with specific operational measures to counter terrorist threats, whereas the text passages on long-term structural measures remain remarkably vague.

The lack of conceptual clarity is accompanied by a lack of cross-pillar coordination. The EU has in fact tried to make some steps towards a cross-pillarisation with regard to JLS. The EU conceives such missions as relevant for contributing to both short-term and long-term external counter-terrorism policy. Likewise, JLS relevant (Third Pillar) issues are integrated into Community external assistance programmes. New Community leverage in EU counter-terrorism policy has been produced through the introduction of the Stability Instrument in the areas '*Prevent*', and the introduction of the Community Mechanism in the area '*Respond*'. However, it must be acknowledged that although elements from one Pillar have been introduced in another, a real cross-pillarisation of decision-making structures with regard to JLS objectives has so far not taken place. Despite the attempts to integrate and coordinate EU procedures, various decision-making structures still exist in parallel.

## 2.14 Assessment

The EU has diversified and systematised its external counter-terrorism policy, best reflected in the 2005 Counter-Terrorism Strategy. The EU has sought to enhance its role as an international actor in the JLS area – both with regard to the contents of policy responses and better coordination of intra-institutional decision-making structures and procedures. However, it has in its practice not managed to pursue a coherent counter-terrorism policy. The policy, is, instead, dispersed and fragmented, due to the EU's own intra-institutional structure, but not least also due to the polymorphy of terrorism itself. The comprehensiveness of the policy response, which is demanded by the ESS, can thus not fully be realised in practice.

It must also be noted that most of the EU's counter-terrorism measures follow a specific perception of the terrorist threat, namely that it is mainly caused by a globally operating terrorist network. However, this view does not necessarily correspond with the current shape of terrorism in Europe. Especially 'home-grown' terrorism is apparently not orchestrated by transnational terrorist networks, but appears to be triggered by the emergence and persistence of conflicts anywhere around the globe and a feeling that (economic and political) injustice is prevailing in the

world. If this assessment is correct, it ought to be the EU's primary goal to prevent such conflicts early on. A pure crisis-*response* approach would then be lopsided. Broader preventive measures would rather meet the problem.

### 3. Ensuring effectiveness and coherence

#### 3.1 A 'Human Security' framework

The EU's counter-terrorism activities in the external realm of domestic security are very disparate. Clearly, mobilising a wide range of means definitely makes sense, given the multifaceted and eclectic nature of the contemporary terrorist threat in Europe. However, the somewhat erratic and uncoordinated way in which the EU in practice applies the means it has at its disposal leaves the impression that its external action does not necessarily follow any broader concept. As terrorism is the result of a wide range of factors, it is necessary to move beyond the construction of direct causal links between conflict in third states and domestic security to a more differentiated argument connecting unrest abroad to security at home.

The obliquity of the EU's external counter-terrorism activities causes a lack of clarity and coherence with regard to the assumed 'link' between the EU's internal security requirements and its external action. Although the ESS was formulated with the aim of establishing a coherent framework for the EU's external security policy, there still seems to be a need to reflect about more conceptual coherence and to look out for an anchor, to which the EU's external activity can be tied. Here, we suggest making use of the evolving Human Security concept. As human security puts the protection of the individual at the core, the concept offers a framework for more coherence and coordination and, thus, may help to bridge the conceptual gap between domestic security and external action.

#### 3.2 What's wrong?

The ESS provides a comprehensive understanding of security but as a general framework it makes no concise statement how external security should be linked up with internal security. The Strategy emphasizes that "the best protection of our security is a world of well-governed democratic states"<sup>156</sup>, but it is not clear whether the EU's external policy is primarily aimed at securing the EU homeland or at creating a peaceful world order. The ESS "leaves unanswered key questions about why the Union should intervene beyond its borders, where it should do so, and according to what criteria"<sup>157</sup>.

This ambiguity and vagueness has become more obvious since the EU has begun to more actively pursue its security policy in the world, particularly in the aftermath of the terrorist attacks in the US and in Europe. Since then, the EU has sought to become "more globally engaged", "flexible" and "more robust"<sup>158</sup>. These efforts have primarily been concentrating on the improvement of different short-term intervention capabilities, such as the further development of the EU's ESDP dimension. The ability to 'rapidly' react to an emerging crisis and short-term intervention plays an ever more important role in the EU's current development of capabilities. The EU has furthermore

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<sup>156</sup> Study Group on Europe's Security Capabilities, 'A Human Security Doctrine for Europe', Barcelona 2004, p.10.

<sup>157</sup> Kaldor, Mary, Martin, Mary, Selchow, Sabine, 'Human security: a new strategic narrative for Europe', *International Affairs* 83 (2) 2007 2, p. 282.

<sup>158</sup> Flechtner, Stefanie, 'European Security and Defence Policy: Between »Offensive Defence« and »Human Security«', *Internationale Politik und Gesellschaft (International Politics and Society)*, (4) 2006 4, p. 161.

increased its efforts to strengthen the JLS capabilities of those key third countries, from which the terrorist threat is deemed to originate.

As these efforts are mainly operational in nature and less structural they are also of a more short-term character. But even external assistance aimed at improving structural conditions, particularly development policies, might come under pressure and be redirected at strategic groups and devices within third states deemed relevant for maintaining the security of the EU. This strategic approach is already evident in the area of counter-terrorism where development issues such as education, job opportunities, and better housing are seen as important aspects of the fight against terrorism and are increasingly directed to transitional populations living in strategic regions<sup>159</sup>.

### 3.3 What kind of concept?

To overcome the conceptual opacity of the EU's external counter-terrorism approach, we need to look for a concept that can bring more coherence to the EU's external action. Conceptual coherence ought to be developed around the notion of a characteristically EU definition of, and response to, threat. Human Security could be suitable for this purpose. Human Security prioritises the security of people, especially their physical safety, basic freedoms, and access to sustainable prosperity<sup>160</sup>. It is, however, important to note that different advocates of Human Security hold different interpretations with regard to respective activities. Human Security has been bifurcated by a *broader* approach oriented to structural changes in third states and a *narrower* one with short-term measures (crisis intervention) at its centre. The broader approach is associated with the concept of "freedom from want", the narrower approach with "freedom from fear"<sup>161</sup>.

The narrower approach focusing on 'freedom from fear' restricts the parameters of human security to actual violent threats against the individual resulting from a wide array of actual threats to the physical inviolability of people. At the same time, if this inviolability is threatened, protective interventions are deemed necessary. At the core of the 'freedom from want' approach is the ability of the human citizen to live without dramatic hindrance to personal well-being in a wider sense, i.e. freedom from constant threats such as shortages of food, from diseases or repression and on the other side access to health, education, employment and social inclusion. This also indicates that the fight against terrorism has to take into account a variety of long-term factors that can lead to state crisis and has to deal with questions of poverty and development. The focus then has to be put on the need to address and solve longer-term development issues and the implementation of stable and peaceful political structures in these states.

The 'Human Security' concept, in fact, is nothing new to the EU. Human Security has been put on the EU's contemporary agenda, when the EU High Representative Javier Solana set up an independent study group to evaluate the prospects of the concept. The group's report entitled 'A Human Security Doctrine for Europe' and published in 2004 encourages the EU to make Human Security the foundation of the future European security policy and stated that the concept should be based on "the primacy of human rights, clear political authority, multilateralism, a bottom-up approach, regional focus, the use of legal instruments, and the appropriate use of force"<sup>162</sup>. Although the report is based on a wider understanding of Human Security, the argumentation put

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<sup>159</sup> Duffield, Mark and Waddell, Nicholas, 'Securing Humans in a Dangerous World', *International Politics* 43, 2006, p. 13.

<sup>160</sup> Duffield and Waddell, *op. cit.*, p. 1.

<sup>161</sup> Liotta, P. H. and Owen, Taylor, 'Sense and Symbolism: Europe Takes On Human Security', *Parameters* Autumn 2006, p. 89.

<sup>162</sup> A Human Security Doctrine for Europe, *op. cit.*, Executive Summary.

forward seems to limit itself to a narrow interpretation, in which short-term crisis management prevails over comprehensive short- and long-term prevention<sup>163</sup>.

The basic principles, constituting a putative Human Security Agenda as exposed in the report, also largely correspond with the EU's 'evolving' strategic culture<sup>164</sup>. The Human Security approach postulates that military action must be strictly limited and subordinated to the aim of stabilising a conflict situation. The military's task then is to enable processes of peace and its deployment is commonly combined with civilian instruments. This is an agenda, which is largely backed by the ESS.

In practice, the EU is implementing many of the Human Security objectives already, however these activities reflect a more narrow interpretation of the concept, i.e. they are mainly oriented at a short-term crisis-management and immediate stabilisation beyond EU borders.

### 3.4 'Homeland Security' or 'Human Security'?

The EU's current approach to domestic (homeland) security is hardly able to bring about conceptual coherence to its counter-terrorism policy. An essential pitfall is the fact that the EU under its Counter-Terrorism Strategy implements a whole range of different, but fragmented and sporadic measures. The Human Security framework could bridge this conceptual gap and eliminate confusion between the immediate need for stabilisation and the need, simultaneously and over the long term, to address these structural conditions<sup>165</sup>. If designed as a comprehensive (broad) conception of Human Security, addressing also the underlying causes related to inequality, exclusion and marginalisation of all people in third countries, it should enable the EU to shift its main focus away from immediate short-term instability and its response to it.

The implementation of a 'Human Security' approach should encompass conflict management and protection, but also long-term crisis prevention, socio-economic stabilisation and state-building. Crisis management missions usually have to be deployed at short notice, but they have also longer-term, i.e. preventive implications, as humanitarian and rescue tasks, peacekeeping or combat operations in crisis management may contribute to the maintenance of long-term stability through the prevention of state failure, the restoration of order and civil government. The aim of any short-term intervention is then to stabilize a situation so that a peaceful political process can be created<sup>166</sup>. This would also disprove arguments that the security and development of third states are important for the EU only insofar as they are a means to enhance the security of the EU homeland.

A comprehensive Human Security approach would, thus, address both the internal and external legitimacy of intervention, "underpinning it with a set of norms and values, and offering both EU citizens and those in target countries with clear principles and justifications for security policy."<sup>167</sup> Military action would be clearly subordinated to the objective of the 'protection' of the individual. The pillar 'respond' under the EU Counter-Terrorism strategy could best and most directly contribute to Human Security in a short-term perspective: the military is deployed for protecting citizens and used for the implementation of purely civilian purposes. In doing so, the EU could

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<sup>163</sup> Liotta and Owen, *op. cit.*, p. 94.

<sup>164</sup> Cornish, Paul and Edwards, Geoffrey, 'Beyond the EU/NATO dichotomy: the beginnings of a European strategic culture, *International Affairs* 77 (3) 2001, pp. 587-603

<sup>165</sup> Kaldor et al., *op. cit.*, p.281.

<sup>166</sup> *Ibid.*, p.284.

<sup>167</sup> *Ibid.*, p.286.



enhance its reputation in the world as it would demonstrate an engagement, which is qualitatively different from traditional security approaches and less prone to fuel terrorism.

### 3.5 Organisational Coherence, Consistency and Co-operation

Across Europe there has been no shortage of counter-terrorism-related policy and operational activity in recent years, particularly since 9/11 and the Madrid and London bombings. Too little of this policy and activity can be said to have been coherent and consistent, however, at least not on the level of the European Union. Some national intelligence, police and counter-terrorism agencies have been both active and coherent and, in certain cases, very successful in addressing the challenge of terrorism. But, self-evidently, the context for most of this activity – whatever the quality and achievement – has been *national* security; for political, jurisdictional and technical reasons. In other words, the development of an EU counter-terrorism culture has been significantly crowded out by more compelling operational concerns at the national level. If ways could be found to exploit all this experience, knowledge and capability more effectively, then there should be a general benefit to the EU and its member states.

### 3.6 EU Counter-Terrorism: the Problem

Keohane and Townsend, among a number of analysts, have argued for a more ‘joined-up’ approach to counter-terrorism on the part of the EU. Given the terrorist threat to targets within the EU and, it has lately been suggested, to the EU itself, and given also that terrorist groups increasingly see parts of the EU as a relatively safe base from which to plan and execute operations. Keohane later argued that ‘concerted European action is indispensable... none of the new threats is purely military; nor can any be tackled by purely military means... Dealing with terrorism may require a mixture of intelligence, police, judicial, military and other means’<sup>168</sup>. Keohane’s prescription is convincing enough, not least since a fusion of civil, military and judicial competences ought to be characteristically well within the means of the EU. But the question then arises; why has it proved so difficult to achieve the levels of coherence and co-operation which many see as essential?

The simplest explanation for the EU’s difficulties is the wide number of EU institutions and agencies which could be involved in counter-terrorism policy and operations; with some reason, Daniel Hamilton has written of a ‘byzantine collection of efforts’ taking place in the EU<sup>169</sup>. As many as 14 EU bodies might be expected to be involved in some way in counter-terrorism policy and operations, making co-ordination organisationally difficult<sup>170</sup>. Furthermore, to devise a counter-terrorism strategic concept which could encompass so many different areas of expertise would be an elaborate and complex undertaking. To a large extent, the EU has become a victim of the proliferation of institutions and agencies and, perhaps more fundamentally, of the three pillar system established by the Maastricht Treaty in 1992.

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<sup>168</sup> Keohane, *The EU and counter-terrorism*, p.6.

<sup>169</sup> Hamilton, D. S., ‘Introduction: Transforming Homeland Security: A Road Map for the Transatlantic Alliance’ in Esther Brimmer (ed.) *Transforming Homeland Security: U.S. and European Approaches*, (Washington D.C.: Center for Transatlantic Relations, 2006).

<sup>170</sup> EU bodies with some competence in counter-terrorism include the following: EU Joint Situation Centre (SitCen); Europol; Eurojust; Terrorist Working Group (TWG); EU Police Chiefs Task Force (TFPC); Political and Security Committee (PSC); Committee of Permanent Representatives (COREPER); Clearing House; EU Satellite Centre (EUSC); Civilian Intelligence Cell (CIC); CFSP working group ‘Terrorism – International Aspects’ (COTER); EU Visa Information System (VIS); Frontex – EU border security; European Programme for Critical Infrastructure Protection (EPCIP). See A. Bendiek, *EU Strategy on Counter-Terrorism: Steps towards a Coherent Network Policy*. SWP Research Paper, November 2006, pp.13-20.

EU-level counter-terrorism policy-making might also have become a victim of an evolving EU security policy ethos founded upon the idea of a ‘comprehensive or holistic approach to security’. According to this assessment, the EU and member states should seek to work together to tackle security concerns, should act in conjunction with other multilateral bodies such as the United Nations, and should deploy armed force only as a last resort<sup>171</sup>. The flaw in this prescription is that one non-coherent body (the EU) must first seek to engage in a fruitful and co-operative relationship with a non-coherent collection of member state governments. In other words, the challenge to achieve counter-terrorism coherence within the EU must be met on as many as three levels: within and between the EU’s institutions; between the EU and the governments of member states; and between member states.

### 3.7 EU Counter-Terrorism: the Solution?

For the EU as a whole to become more coherent and consistent in counter-terrorism policy and operations, efforts must be made in the three areas just described. In each area, a distinct effort will be required at improving coherence – described here as *horizontal coherence*, *vertical coherence* and *inter-governmental coherence* – and all three areas of activity must succeed<sup>172</sup>.

- **Horizontal coherence.** Efforts should be made to improve the traffic of information, knowledge and best practices between the relevant EU institutions. This might require further development of cross-pillar bodies which can assemble and disseminate information, and coordinate policies and responses, and by doing so limit the potential for competition between EU institutions. By this means, co-operation can be achieved on the basis of need, as a practical, ‘bottom-up’ necessity, rather than wait for a top-down, so-called ‘theological’ solution to inter-institutional coherence in the EU.
- **Vertical coherence.** Too little of the EU’s long and relevant experience of combating terrorism has moved ‘vertically’ beyond the national level to inform and improve policy at the EU level. An example of vertical *incoherence* can be found in the predominance of national intelligence services. The Situation Centre - the centre for intelligence in the Council Secretariat - analyzes information, but operational work remains the exclusive competence of the national security and intelligence services.’ Thus, although the SitCen was initially successful in fostering intelligence co-operation, it has been impeded by the reluctance of EU member states to share intelligence since 9/11. The awkward result is that the SitCen is unable to mandate or provide effective responses to the threats it analyses; a responsibility which rests firmly with the member states. The capacity and credibility of the EU in counter-terrorism are clearly undermined by the absence of vertical coherence in intelligence sharing.
- **Inter-governmental coherence.** Improvements must also be sought in the relations between member state governments. The passage of information, and specifically of intelligence and police information, could help to secure arrests and convictions, solve cases, or at least track terrorists across borders. Improved inter-governmental co-operation could see closer harmonization of counter-terrorism policies, or at the minimum the diffusion of best practice across national borders within the EU. According to the *Economist*, in a feature published

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<sup>171</sup> Quille, G., ‘The European Security Strategy: A Framework for EU Security Interests?’, *International Peacekeeping* (No. 11 Autumn 2004), 422.

<sup>172</sup> Christiansen, T., ‘Intra-institutional politics and inter-institutional relations in the EU: towards coherence governance?’, *Journal of European Public Policy* (Vol. 8, October 2001), 753. See also Nuttall on the need for horizontal, institutional and vertical consistency: S. Nuttall, ‘Coherence and Consistency’ in C. Hill and M. Smith (eds.), *International Relations and the European Union*, (Oxford: Oxford University Press, 2005), 92.

shortly after the London bombings in 2005, ‘even French complaints of British leniency (especially to Islamists from Algeria) have faded since a recent British decision to extradite a man suspected of financing the 1995 Metro bombings in Paris’<sup>173</sup>.

There is a compelling case for a new organisational framework for EU counter-terrorist co-operation and co-ordination. Cross-pillar work of the sort undertaken by COREPER and the Clearing House system are essential features of EU counter-terrorism, but these and other institutions must first be audited for efficiency and commonality of purpose. Having done so, the EU should then be in a better position – more credible and convincing in the eyes of member state governments – to facilitate more efficient and effective inter-governmental collaboration. Furthermore, if coherence can be achieved on all these levels, then it might in time be possible for the EU to build a more productive and mature counter-terrorism relationship with other multilateral organisations, particularly NATO.

Effective, pan-EU activity in counter-terrorism is most likely to be achieved on the basis of measurable, functional efficiency and practical achievement. An *ad hoc*, multi-level and multi-agency approach to counter-terrorism will always be limited in its achievement. A more systematic and deliberate approach, on the other hand, particularly one which can take proper account of the complex and peculiar, non-state characteristics of EU governance, should offer better prospects for the general improvement and consolidation of counter-terrorist practice across the EU. In this regard, the British counter-terrorist strategy known as CONTEST could offer a useful model. In the British example, central co-ordination is achieved in conjunction with the devolution of ‘first response’ authority to a lead agency in the event of a particular crisis or emergency, while heavy emphasis is placed on local responsibility and local, public resilience.

#### **4. Conclusions and Recommendations**

The EU has developed a distinct style of policy response to the emerging terrorist threat in Europe, and, thus, a specific approach to ‘Homeland Security’ as opposed to the US. While the US efforts in combating terrorism are primarily characterized by a focus on vulnerability and on risk elimination, the EU instead focuses on the probability of terrorist attacks and on the management of risk. Until now, the ‘EU way’ in Homeland Security has been one driven by the attempt to expand the Union’s problem-solving capacity both internally and externally through the mobilisation of (foreign policy) means across all three Pillars. The reorganisation of policies in the field of counter-terrorism, particularly the efforts to integrate JLS objectives into the EU’s external relations agenda, reflects the EU’s attempt to bring more security to its citizens and the EU homeland. The previous examination of the EU’s post 9/11 counter-terrorism policy demonstrates that the Union already tries to link internal security requirements with the external security objectives defined in the ESS. The crucial question following from this is, therefore, whether this approach is adequate and can be effective.

##### **4.1 Consistency of EU Policy Response**

The EU is equipped with a variety of instruments and is currently developing new capabilities in order to address terrorism in a more targeted way. Law enforcement co-ordination and sharing of intelligence information are two cornerstones of current EU internal counter-terrorism activities. There are wide disparities in the style and quality of intelligence collation and analysis across the EU, however. The sharing of terrorism-related information has proved to be difficult. What are

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<sup>173</sup> ‘The fight within (Counter-terrorism in Europe)’, *The Economist*, 23-29 July 2005, pp.35-36.

perceived to be centralist intrusions into the sovereign, security-related affairs of Member States are likely to be resisted by governments for the foreseeable future. The notable exception to this rule is Europol, which is demonstrating that Member States can indeed work together on matters of domestic security.

With regard to external counter-terrorism policies, the EU has gradually and continuously expanded and diversified the scope of its activity since 2001. Following its traditional understanding that terrorism is a special kind of crime (and not a military matter) the EU has sought to enhance its role as an international actor primarily in the JLS area – both with regard to the contents of policy responses and better coordination of intra-institutional decision-making structures and procedures. The two pillars ‘*Prevent*’ and ‘*Respond*’ in the EU’s Counter-Terrorism Strategy are the two areas where the EU has made the biggest efforts to build up the internal-external link.

Under the ‘*Respond*’ pillar, the EU is currently developing its (civilian and military) rapid reaction, crisis management and disaster response capabilities, particularly in the ESDP framework. However, an ‘integrated’ security approach, which ‘intrinsically’ links internal and external aspects of security, has not been fully realised as yet. The measures applied in the EU’s external counter-terrorism practice show a mismatch between immediate and short-term stabilisation (security export) efforts in third countries on the one hand and long-term measures addressing the structural conditions and root causes of terrorism on the other, with a clear preference towards the former.

Drawing upon the analysis the following recommendations should be considered:

9. In order to address the transnational dimension of terrorism, the EU should develop a comprehensive, global approach, with multilateralism and international co-operation as its cornerstones. Well-functioning international institutions, in particular the strengthening of the UN, and a rule-based international order reinforcing the consensus that terrorism is intolerable under any circumstances, must remain key elements. On a bilateral level the EU should deepen transatlantic co-operation and seek ways to improve the sharing of best practice with the US. It should also strengthen the capabilities of third states to tackle the root causes of terrorism. It is imperative that in its relations with its partners, the EU insists on the adherence to human rights and civil liberties.
10. A key requirement for the EU is to get more conceptual clarity as to how to combat terrorism outside its territory. Particularly external development assistance aimed at improving the structural conditions in third states is, under the current ‘Homeland Security’ approach, likely to be redirected at ‘strategic’ groups and devices perceived as relevant for countering terrorism. This development, however, does not take fully into account the various causes for terrorism and the diverse motives of terrorists. The EU should decide on broader preventive measures and long-term commitment to stabilisation and sustainable modernisation on a broad scale, including development aid in connection with fair economic relations.
11. The concept of Human Security could help to bridge the conceptual gap as it takes into account the underlying causes related to inequality, exclusion and marginalisation of *all* people in third countries leading to potential tensions, conflicts, and, potentially also to radicalisation and terrorism. Human Security can make a significant contribution to the elimination of terrorism in general. It could eliminate confusion between the immediate need for stabilisation and the long-term need to address structural conditions, which may

be conducive to terrorism. The Human Security approach could, for example, be used as a guideline for the EU in managing its JLS assistance in the field of counter-terrorism. With its focus on the individual well-being of people it can function as a 'safeguard' when strengthening the prosecution/law enforcement capabilities of third states.

12. The lack of conceptual clarity is accompanied by a lack of cross-pillar coordination in JLS issues. The EU has tried to make some steps in this regard by introducing elements from one Pillar into another. However, a real process of cross-pillarisation has yet to occur. Despite attempts to integrate and coordinate EU procedures in similar fields of activity, various decision-making structures still exist in parallel. The EU must acknowledge that whereas a lack of institutional coherence often means no more than a wasting of resources, conceptual incoherence has far more severe consequences for achieving the security aims of the EU.

#### **4.2 Effectiveness of EU Policy Response**

The EU response to contemporary terrorism follows the perception that the threat is mainly external i.e. that it originates primarily from outside the EU and is sustained by terrorist networks operating globally. However, this view does not necessarily correspond with the current shape of terrorism in Europe.

The EU should, therefore consider the following recommendations:

1. The EU should keep in mind that terrorism within the EU is triggered by a number of reasons and motivations. Even single events within the EU (such as the publication of caricatures of the Prophet Mohammed in Western newspapers) may result in terrorist activities. But even when reasons and motivations are located outside the EU, they are not always bound to specific conflicts in third states, but may also be rooted in a general feeling of deprivation or a diffuse feeling of prevailing injustice. Moreover, 'home-grown' terrorism is apparently not orchestrated by transnational terrorist networks. The EU should continue to gather knowledge about the various motivations leading to radicalisation and terrorism in order to improve and adapt the external components of its counter-terrorism strategy accordingly.
2. Where terrorism *is* motivated by the emergence and persistence of external conflicts, it ought to be the EU's primary goal to prevent such conflicts early on. A pure *crisis-response* approach would be lopsided. The EU should increase its commitment to developmental issues (economic and social development, equal opportunities, education) and human rights in general and should strengthen its rule of law and security sector reform activities in relevant third states. The potential of ESDP missions to contribute to long-term stabilisation should be advanced in this respect and the current emphasis on short-term crisis response should be counterbalanced by an increase in early involvement.
3. Long-term structural improvements may also mitigate the radicalisation and recruitment problems within third states as far as these are rooted in a feeling of deprivation. Such feelings can often be found in states where modernisation blockades exist. Many of the specific 'anti-radicalisation' and 'anti-recruitment' policies listed in the respective strategy papers of the EU seem to be useful and are applicable both within the EU and in third countries. Measures to disrupt the activities of those who draw people into terrorism, to ensure that voices of mainstream opinion prevail, and more 'street work', are essential.

However, these will not be successful as long as underlying causes of terrorism are not addressed.

4. Short-term civil-military interventions in crisis situations can help to prevent the imminent outbreak of violent conflicts or help to mitigate or stop violence. As far as terrorist activities within the EU are also inspired by external conflicts, such short-term interventions may also be beneficial for the prevention of terrorism. As a rule, short term civil-military interventions are only advisable if the mandate is focused on problems of Human Security. Short-term interventions must be complemented by long-term 'good governance' measures (rule of law, civil administration, civil society, security sector reform) and should be fully integrated within every mandate.
5. External activities under the pillar '*Respond*' could best and most directly contribute to a comprehensive security (and subsequently Human Security) approach, since interventions (including the military) are guided by civilian (protection) objectives and are most directly targeted at the well-being of citizens. In deploying such rapid reaction and disaster response capabilities externally, the EU could enhance its reputation in the world.

### 4.3 Strengthening the role of the European Parliament

The European Parliament (EP) has produced a number of resolutions with regard to JLS-relevant questions, i.e. the establishment and securing of the 'Area of Freedom, Security and Justice',<sup>174</sup> and has attentively followed and commented on steps taken by EU actors in developing and implementing the EU counter-terrorism strategy.<sup>175</sup> The EP's activity and interest in this issue is not least the result of the important role it plays in this policy field as a legislator, a watchdog, and an initiator of new projects.

The following recommendations are specifically pertinent to the role of the EP:

6. The Commission and the Council should regularly inform the EP about the practical implementation of the EU's Counter-Terrorism Programme. The EP, in turn, should pay attention to possibilities for improving the EU's policy response, to learn from new insights into the causes of Islamist terrorism (home-grown and/or international), and to draw lessons from previous strategies. The EP should particularly raise questions about those counter-terrorism objectives of the EU that prove inconsistent with broader or longer-term security needs (Human Security).
7. In the fight against terrorism, Homeland Security and the maintenance of civil rights and liberties have to be balanced carefully. The EP is well known for its engagement in advocating human and civil rights, both within and beyond the EU. It should continue to draw particular attention to the preservation of civil liberties and human rights in the difficult calibration of freedom and security in the fight against terrorism.

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<sup>174</sup> Cf. European Parliament: Resolution of 27 October 1999, on the European Council meeting in Tampere; Resolution of 10 March 2003, relative to the progresses released in 2002 towards the creation of the AFSJ; Resolution of 11 March 2004, on the progress made in 2003 in creating an area of freedom, security and justice; Recommendation of 14 October 2004, on the future of the area of freedom, security and justice as well as on the measures required to enhance the legitimacy and effectiveness thereof.

<sup>175</sup> Cf. European Parliament, 'Draft Report of 18 September 2006 on the external dimension of the fight against international terrorism' (2006/2032(INI)) Provisional. Committee on Foreign Affairs. Rapporteur: Luis Yanez-Barnuevo Garcia; cf. also the MEPs debate on the fight against terrorism on 5 September 2007, [http://www.europarl.europa.eu/news/expert/infopress\\_page/019-10002-246-09-36-902-20070823IPR09765-03-09-2007-2007-false/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/019-10002-246-09-36-902-20070823IPR09765-03-09-2007-2007-false/default_en.htm).

8. Democratic control over the negotiation and conclusion of agreements with potentially major implications for citizens' and human rights and freedoms should be ensured. It is, therefore, imperative that the Council consults the EP prior to the conclusion of international agreements on police and judicial co-operation in criminal matters – until the Lisbon Treaty enters into force - which will strengthen the oversight rights of the EP in JLS matters.
9. The EP should insist that ESDP operations expenditures funded by the EU budget are planned and executed according to the principles inherent in the Human Security approach and urge the relevant EU bodies to integrate structural (long-term) follow-up measures into the initial planning scheme in order to ensure continuity of activities.
10. With regard to assistance programmes or budget lines which explicitly include a security dimension, the EP should carefully examine their effectiveness and coherence and ensure that more emphasis is made on long-term preventive engagement.
11. The EP has supported the creation of a European office to assist victims of terrorism. This fits its into the EU's activities developed under the pillar '*Respond*' of the Counter-Terrorism Strategy. In this context, the EP should think about how such forms of assistance could be improved on a global scale.